



NYSACDL
NEW YORK STATE ASSOCIATION
OF CRIMINAL DEFENSE LAWYERS

March 14, 2022

The Honorable Vanita Gupta
Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

The Honorable Damian Williams
United States Attorney
Southern District of New York
1 St. Andrew's Plaza
New York, New York 10007

Re: Nunez v. City of New York, et al.
11 Civ. 5845 (LTS)(JCF)

Dear Ms. Gupta and Mr. Williams,

We write to express profound concern regarding the humanitarian crisis in New York City's Rikers Island Correctional Facility ("Rikers") which currently houses approximately 5,500 people. We, the National Association of Criminal Defense Lawyers and New York State Association of Criminal Defense Lawyers, have been monitoring developments on Rikers, including recent allegations of an active "coverup" by staff of assaults,¹ as well as the related litigation before Judge Swain. We urge you to act immediately to address the unconstitutional and inhumane conditions.

You are doubtless aware of media reports regarding the conditions at Rikers including the recent reporting on two assaults which left one man paralyzed in August and put another in a coma in December. NACDL members have confirmed that Rikers is out of control despite the appointment of the new Correction Commissioner and the Monitor appointed by the Court.² It is

¹ [Unreported Rikers Island Beatings: 'Disturbing and Unacceptable' - The New York Times \(nytimes.com\)](#)

² See New York Times, *How Brutal Beatings on Rikers Island Were Hidden From Public View*, March 2, 2022; New York Times, *The Violence at Rikers That's Shrouded in Silence*, March 3, 2022. The Monitor's December 2021 report called Rikers "a system that is rife with violence and disorder." See The City, *Rikers Report Calls 2021 'Most Dangerous Year' Amid Escalating Jailhouse Violence*, Dec. 6, 2021 available at <https://www.thecity.nyc/2021/12/6/22821629/rikers-report-calls-2021-most-dangerous-year-amid-escalating-jailhouse-violence> (last visited March 5, 2022) and Dkt. 431, the Monitor's December 2021 report.

of great concern that recent reporting suggests that Rikers' staff actively suppressed information regarding assaults.³

To ameliorate the unconstitutional and inhumane conditions at Rikers Island, we urge the Department of Justice to act swiftly. Most importantly, the Department should support the appointment of a Receiver as other courts have done to address prolonged resistance by local or state government. As Brennan Center counsel Hernandez D. Stroud pointed out, "For six years, federal Judge Laura T. Swain has attempted through various means, including court order and appointment of a monitor, to marshal New York City to undo the scandalously unconstitutional conditions on Rikers. And for six years at nearly every turn, the city has not complied with the judicial mandates." See <https://www.brennancenter.org/our-work/analysis-opinion/way-forward-rikers-island-receivership>.

To put this in perspective, Kalief Browder took his own life over six years ago due, in part, to the trauma he suffered at Rikers. To avoid another tragedy of this magnitude, as well as continued suffering by human beings held at Rikers, the Government must act swiftly and decisively. The conditions at Rikers offend not only the Eighth Amendment but fundamental notions of humanity not to speak of compassion. No one – presumed innocent or convicted of a crime – should suffer the violence, filth, and humiliation which are apparently routine at Rikers. We ask you to act immediately to address these conditions which we would not hesitate to criticize as violations of human rights in any foreign jurisdiction.

Respectfully,

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NACDL President

Lisa M. Wayne
NACDL Executive Director

Brian M. Melber
NYSACDL President

Richard D. Willstatter
NACDL Board Member &
NYSACDL Past President

³ [Unreported Rikers Island Beatings: 'Disturbing and Unacceptable' - The New York Times \(nytimes.com\)](#)

cc: The Honorable Kristen Clarke
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