

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARK NUNEZ, et al.,

Plaintiff,

-v-

No. 11-CV-5845-LTS-RWL

CITY OF NEW YORK et al.,

Defendants.

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ORDER

The Court has reviewed the Status Report on the Department of Correction’s Action Plan by the Nunez Independent Monitor filed on October 5, 2023. (Docket Entry no. 581 (the “Status Report”).) The Status Report identifies several instances wherein the Commissioner of the Department of Correction (the “Department”), and possibly other agency staff, have attempted to unduly influence or interfere with the work of the Monitor. These actions are, simply put, unacceptable. Indeed, the Court recently entered two orders—on June 13, 2023 (docket entry no. 550 at § 1) and August 10, 2023 (docket entry no. 564 at § 1)—requiring the Department to take the concrete steps necessary to improve its transparency and collaboration with the Monitoring Team. The Court has also repeatedly emphasized, during the last two status conferences, that Defendants are required (i) to work with the Monitor<sup>1</sup> and (ii) to adhere to the Nunez Court Orders<sup>2</sup>.

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<sup>1</sup> See, e.g., docket entry no. 566 at 74:1-3 (emphasizing that Defendants must create “transformative change in [their] working relationship with the monitor, whose team brings essential added expertise to the challenges facing the jails”).

<sup>2</sup> See, e.g., docket entry no. 554 at 85:10-15 (“[The Court] finds that it is unfortunately necessary to clarify and, again, underscore the responsibilities that have been imposed by

In light of the disturbing reports of Defendants' recent behavior, the Court reminds the Commissioner of the Department of Correction and all Defendants that they must not interfere with, attempt to influence, or otherwise threaten the Monitor. Specifically, they (i) must not limit access to information to which the Monitor is entitled under the Nunez Court Orders and (ii) must report to the Court as required by the Nunez Court Orders. Continued failure by the Commissioner, or by any Defendant, to scrupulously comply with any of the Court's Nunez Orders, including this order, may result in additional orders or sanctions as the Court deems appropriate.

The Court further orders the following:

- The Department's Executive Leadership, including the Senior Deputy Commissioner, the Security Manager, the Classification Manager, and the Staffing Manager, shall convene a meeting with the Monitor, no later than **October 18, 2023**, to devise a plan that can be implemented immediately to ameliorate the unacceptable levels of harm in the New York City jails.
- The Department, in consultation with the Monitor, shall immediately develop and implement, by **October 25, 2023**, protocols to address the deficiencies in the Department's internal reporting structures and notifications to the Monitor as described in the "Incident Reporting" Section of the Status Report. (See Status Report at 10-12.)

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orders that have been in place for years and more recent orders. But to the extent there are any ambiguities and to the extent that specifics of timing and execution of methodology of responsibilities is necessary to make sure that we are all clear, it is appropriate and it is necessary."); docket entry no. 566 at 73:24-74:7 ("[The Court] expect[s] nothing less than scrupulous compliance with the proposed order that [it is] entering today. . . Higher expectations for the working methods, standards, and compliance for those whom defendants employ in the jails is also expected and, most important, rapid improvement of the day-to-day results of these efforts is expected.").

- The Monitor shall advise the Court on the sufficiency of the steps the Department has taken to address the matters in this Order in his November 8, 2023, Report to the Court. The Monitor shall also advise the Court of any recommendations for further improvements and enhancements.

SO ORDERED.

Dated: October 10, 2023  
New York, New York

/s/ Laura Taylor Swain  
Laura Taylor Swain  
Chief United States District Judge