



Legislation Text

File #: Res 0669-2023, **Version:** A

Proposed Res. No. 669-A

Resolution expressing a loss of confidence in the New York City Department of Correction to safely manage the New York City jails, and further resolving that the immediate appointment of a receiver is necessary.

By the Public Advocate (Mr. Williams) and Council Members Richardson Jordan, Ossé, Hudson, Farías, Cabán, Krishnan, Avilés, Powers, Barron, Narcisse, Williams, Bottcher, Gutiérrez, De La Rosa, Won, Joseph, Nurse and Hanif

Whereas, The New York City Department of Correction (DOC) manages the New York City jails; and

Whereas, According to DOC's Data Dashboard, the average daily population in New York City jails was 6,018 as of May 23, 2023; and

Whereas, According to that same data, on June 13, 2023, there were 5,453 individuals in New York City jails who had not yet been convicted of a crime and were awaiting trial; 1,254 of those individuals had been waiting over one year for a court date; and

Whereas, New York City jails have long been plagued by disorder, violence, and mismanagement, creating an unsafe and inhospitable environment for both staff and incarcerated individuals; and

Whereas, In the 2015 lawsuit *Nuñez v. City of New York (Nuñez)*, a plaintiff class consisting of all individuals held in New York City jails alleged that DOC engaged in a pattern and practice of using unnecessary and excessive force in violation of their Constitutional rights; and

Whereas, As part of a court-ordered Consent Judgment in *Nuñez* entered upon agreement by the plaintiff class, the City, and the United States Government as plaintiff-intervenor, the City must adopt reforms to reduce violence in city jails and protect the Constitutional rights of individuals in DOC custody; and

Whereas, Pursuant to the *Nuñez* Consent Judgment, a court-appointed Monitor issues regular reports in accordance with a court-mandated schedule and special reports as deemed necessary to fulfil his mandate

overseeing reform efforts; and

Whereas, The Monitor, in his March 16, 2022 Special Report, found that New York City jails remained volatile, unstable, and unsafe over six years after the initial Consent Judgment was ordered despite multiple subsequent Remedial Orders; and

Whereas, In an April 19, 2022 letter to the Court, Damian Williams, U.S. Attorney for the Southern District of New York, noted the sustained non-compliance of DOC with the Consent Judgment and remedial orders and made clear that, absent expeditious and drastic action by the City, the Government would seek more aggressive relief, including the possibility of a receiver with the authority necessary to advance sweeping reform; and

Whereas, In an April 24, 2022 letter to the Court, the City rejected the idea of receivership, reiterated their commitment to undertaking the necessary reforms, and subsequently proposed an Action Plan purported to achieve sustainable improvements; and

Whereas, The Monitor, in a June 10, 2022 submission, noted that the Action Plan may not be sufficient to reform the agency, recognized that the DOC may be unable to confront existing internal and external obstacles to reform, and expressed serious concerns as to whether the Department is capable of fully and faithfully implementing its Action Plan with integrity; and

Whereas, In a June 10, 2022, letter to the Court, The Legal Aid Society and co-counsel, as counsel for the plaintiff class in *Nuñez*, criticized the Action Plan as insufficient to cure the unconstitutional and unsafe conditions in New York City's jails and stated their intention to move for the appointment of a federal receiver to take control of the City's jails; and

Whereas, On June 14, 2022, the Court ordered the City to comply with the proposed Action Plan and set a reporting schedule to assess ongoing implementation; and

Whereas, Despite the Consent Judgment, three Remedial Orders, and a court-ordered Action Plan, the City has failed to reform New York City's jails; and

Whereas, People continue to die in the City’s jails; according to the Monitor’s June 8, 2023, report, 19 individuals died in DOC custody or shortly after being ‘compassionately released’ in 2022 and 16 died in 2021, the highest death tolls in any years since the Consent Judgment of 2015; in 2023, three more individuals have already died; and

Whereas, Violence remains rampant in the City’s jails; according to the Monitor’s June 8, 2023 report, every safety and violence indicator measured by the Monitor has increased substantially since the Consent Judgement went into effect while excessive use of force by DOC staff has continued unabated; and

Whereas, In his June 8, 2023 Special Report, the Monitor drew attention to the glacial and regressive pace of reform over the past eight years, repeatedly cast doubt on DOC’s willingness and ability to safely manage the individuals in its custody, and found that DOC had not implemented effective solutions to any of the most pressing security and use of force problems previously identified in the Consent Judgment, Remedial Orders, and Action Plan; and

Whereas, In both his May 26, 2023 Special Report and June 8, 2023 Special Report, the Monitor drew attention to DOC’s lack of transparency and regression in management of the reform process, including the provision of misleading, incomplete, and factually inaccurate information by DOC to the Monitor and the Court; and

Whereas, In a June 13, 2023 conference before the Court, representatives of the United States Government renewed their concerns about the City’s inability to enact needed reforms and again raised the prospect of more dramatic remedies, including the potential appointment of a receiver; and

Whereas, At that same conference, The Legal Aid Society and their co-counsel renewed calls on behalf of the plaintiff class for a receiver to be appointed to address the decades-long abuses occurring in New York City’s jails; and

Whereas, In a July 17, 2023 statement, the United States Attorney for the Southern District of New York advised that their office will seek a court-appointed receiver to address the conditions on Rikers Island.

Whereas, A Court may appoint a receiver that has independent authority as defined by and wholly accountable to the Court; and

Whereas, Only a court-appointed receiver would have the political independence and necessary powers to enact the wide-ranging reforms to DOC's leadership structure, staffing practices, and institutional culture that are necessary to address systemic violence and impunity in our City's jails; and now, therefore, be it

Resolved, That the Council of the City of New York expresses its loss of confidence in the ability of the New York City Department of Correction to safely manage New York City jails; and

Further resolved, That the immediate appointment of a receiver is necessary.

CMB, JW
LS #10110
8/9/23