



June 5, 2023

BY HAND & EMAIL

Honorable Letitia James
Office of the Attorney General
The Capitol
Albany, NY 12224

Breon Peace
United States Attorney for the
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

Damian Williams
United States Attorney for the
Southern District of New York
86 Chambers Street, 3rd Floor
New York, NY 10007

Re: Investigation Into the Death Of Joshua Valles

Dear Attorney General James, United States Attorney Peace, and United States Attorney Williams,

I write on behalf Joshua Valles' family and as Executive Director of New York County Defender Services ("NYCDS"), which represented Mr. Valles, to urgently request that your offices undertake an immediate investigation into his inexplicable death after being detained by the New York City Department of Correction ("The Department").

Mr. Valles, a 31-year-old New York City resident, died on Saturday, May 27th, 2023, after suffering a subdural hematoma and skull fracture while detained on Rikers Island. In the days following his death, the Department Commissioner Louis Molina attempted to hide the circumstances of Mr. Valles' death, which to this day remain a mystery to his family, our office, and the public at large. This fact, compounded by the outright false explanations initially reported by the Department, and the Department's recent announcement that it is not legally obligated to report on deaths sustained in its facilities, lead us to

New York County Defender Services

100 William St, 20th Floor, New York, New York 10038 | t: 212.803.1500 | f: 212.571.6035 | nycds.org

question the veracity of any Department-issued account of the events that led to Mr. Valles' tragic, untimely demise. We have no confidence in any investigation that relies on Department reporting and are therefore seeking the intervention of your offices to uncover the cause of Mr. Valles' death.

The timeline of relevant events as we currently understand them are laid out below:

- Mr. Valles entered Department custody on April 8, 2023, after bail was set in the amount of \$10,000 cash/bond. He had no prior criminal record and stood charged with non-violent, theft-related offenses that stemmed from his ongoing struggle with mental health and substance use issues. NYCDS attorney Amanda Barfiled was assigned to represent him in his criminal matters.
- On April 13th, Mr. Valles had a court date, but he was not produced by the Department. The criminal matter was adjourned to May 8th.
- On April 25th, the Department failed to bring Mr. Valles to a pre-scheduled video-conference with NYCDS social worker, Kevin Bailey. Mr. Bailey states that the Department brought the wrong person to the video booth and he spent one hour waiting for Mr. Valles, who never appeared.
- On May 1st, one week later, Mr. Bailey was finally able to meet with Mr. Valles via video-conference.
- On May 8th, Mr. Valles was produced in court by the Department for his Supreme Court arraignment in Part 71. The prosecutors agreed to have him screened for a drug diversion program.
- On May 14th, I am informed by Mr. Valles' mother that he called her to wish her a Happy Mother's Day.
- On May 19th, while being housed at the Anna M. Kross Center ("AMKC") on Rikers Island, Mr. Valles was brought to the facility's medical clinic complaining of nausea, vomiting and a severe headache.¹ An unknown medical professional determined that the situation was serious enough to have Mr. Valles immediately transported to an outside medical facility.
- On May 19th, while Mr. Valles was in transport to Elmhurst Hospital, he suffered a seizure and was given anti-seizure medication. Upon arriving at the emergency department of the hospital, Mr. Valles suffered cardiac arrest and stopped breathing. Mr. Valles was resuscitated and placed in the intensive care unit ("ICU"). While in the ICU, a neurosurgery consult was requested and a CT scan of Mr. Valles' head was ordered. The results showed significant swelling of the brain.

¹Special Report of the Nunez Independent Monitor, Office of the Monitor, *Nunez, et al. v. City of New York, et al.*, 11-cv-5845 (LTS) (JCF), Document 533, Filed 05/26/23, available at <https://s3.documentcloud.org/documents/23828480/2023-05-26-special-report.pdf>.

- On May 20th, Ms. Barfield was notified that Mr. Valles was in the ICU at Elmhurst hospital and that he was brain dead and being kept alive by life-support machinery.
- On May 22nd, Department General Counsel Paul Schectman spoke with NYCDS supervising attorney Ernesto Papaleo about Mr. Valles' condition. He reported that Mr. Valles was rushed to the hospital after complaining of a headache. Mr. Schectman relayed that the Department was unsure of the cause of Mr. Valles' condition, but understood the prognosis did not look good. Mr. Schectman did not mention the CT scan that was ordered on May 19th or that results of the scan: significant brain swelling. He told Mr. Papaleo that he would inform him if he received any further information.
- On May 22nd, hospital offices notified Mr. Valles' sister of his medical condition. To date, no one from Commissioner Molina's office, the Department's general counsel's office, or the warden's office of AMKC have ever communicated with Mr. Valles' family. Their communication was limited to the Department correction officer assigned to guard their loved one while in a vegetative state.
- On May 23rd and May 24th, NYCDS supervising attorney Ernesto Papaleo spent two days attempting to persuade the district attorney's office of New York County to consent to Mr. Valles' release from Department custody so his family could visit and make medical decisions without the presence of correction officers, who were still assigned to "guard" Mr. Valles while he was in a vegetative state. The local prosecutors refused to consent to Mr. Valles' release and the case was calendared before a judge on May 24th, 2023.
- On May 24th, Mr. Papeleo made an application to the court that Mr. Valles' bail status be changed to "release on his own recognizance" and the court approved the request.²
- On May 24th, Mr. Valles' family honored his request to be an organ donor and he was kept alive for three additional days while he underwent testing and compatibility analysis for organ donation.
- On May 26th, the SDNY-appointed *Nunez* federal monitor, Steve J. Martin, ("the monitor") released a special report on a series of 5 deadly or life-altering events that had transpired within Department facilities in the past 15 days and perhaps more alarmingly, had not been properly reported. The report included Mr. Valles' case, which is referred to as "incident #4."³
 - According to the Department, Mr. Valles went to the hospital for a "non-incident related condition of injury, ... [he] left the unit on his own power, he quickly took a turn for the worse." The Department reported to the monitor that they did "not

² The Department has repeatedly stated that Mr. Valles was "granted compassionate release." We are unaware of any change in Mr. Valles custody status other than the bail change granted on May 24th, 2023, after supervising attorney Ernesto Papeleo spent two days attempting to get Mr. Valles' released.

³ Special Report of the Nunez Independent Monitor, Office of the Monitor, *Nunez, et al. v. City of New York, et al.*, 11-cv-5845 (LTS) (JCF), Document 533, Filed 05/26/23, available at <https://s3.documentcloud.org/documents/23828480/2023-05-26-special-report.pdf>.

suspect that any foul play occurred” and that they know of “no other details”. Conspicuously omitted in the Department’s reporting was any mention of a skull fracture, or of a subdural hematoma as revealed by Mr. Valles’ CT scan.

- The Monitor stated in their special report, “As the Monitoring Team received no further details regarding the incident other than that which is stated herein, the Monitoring Team is unable to assess the incident and the veracity of the Department’s claims.”
- On May 27th, Mr. Valles’ organs were harvested for donation and he was officially declared dead.
- On May 31st, several media outlets reported that an autopsy of Mr. Valles revealed that he died as a result of a fracture. This reporting was confirmed by a letter dated May 31st, 2023, from the federal monitor to the presiding judge in the Nunez case, Judge Swain.⁴
- On May 31st, the Department announced that it would be conducting an “internal investigation” into the matter.

The Department did not disclose to the public, to Mr. Valles’ defense team, or to external oversight bodies the fact of Mr. Valles’ death, and was quick to dismiss any assertion that it should be held accountable for it in any way. According to Department accounts, Mr. Valles’ condition was not due to any “official wrongdoing” or “foul play”. The Department’s official accounts claim that he was sent to the hospital complaining of a headache not related to an injury or use of force incident, and “took a turn for the worse” on the way,⁵ with the cause of death labeled as a “heart attack”.⁶ It was not until Mr. Valles’ autopsy report was completed that we learned the true cause of death: Mr. Valles died of a skull fracture. The monitor first revealed this fact to the public on May 31st, 2023, stating that the Department’s allegations about Mr. Valles’ death were false.⁷ When confronted with this information, the Department revealed to the monitor that, in fact, their records showed that Mr. Valles had been involved in a physical altercation the month prior to his death. This incident was captured on surveillance footage in the possession of the Department, but never reported or shared with the monitor, the public, the Board of Correction, or the family.⁸

The monitor’s disclosures reveal a pattern of obfuscation of the truth within NYC jails, such that the monitor has announced that it can no longer trust the accuracy of the Department’s reporting.⁹ Also shared

⁴ Letter to the Court, Office of the Monitor, *Nunez, et al. v. City of New York, et al.*, 11-cv-5845 (LTS) (JCF), Document 536, Filed 05/31/23.

⁵ Special Report of the Nunez Independent Monitor, Office of the Monitor, *Nunez, et al. v. City of New York, et al.*, 11-cv-5845 (LTS) (JCF), Document 533, Filed 05/26/23, available at <https://s3.documentcloud.org/documents/23828480/2023-05-26-special-report.pdf>.

⁶ Courtney Gross, *Monitor Reveals Rikers Detainee Had Skull Fracture, As DOC Faces More Controversy*, Spectrum News/NY1, (June 5, 2023), <https://www.ny1.com/nyc/all-boroughs/politics/2023/05/31/monitor-reveals-rikers-detainee-had-skull-fracture--as-d-oc-faces-more-controversy>;

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

in the monitor's May 26th special report is the fact that Commissioner Molina pleaded with the monitor not to release the report. Moreover, in the wake of public scrutiny regarding the disturbing lack of transparency surrounding deaths and serious injuries sustained within jail facilities, last week, the Department announced that it will no longer publicly disclose any deaths that occur in its facilities. This signals not only that the lives lost or otherwise traumatized within NYC jails are of little import to the Department and Commissioner Molina, but that this city agency has no commitment to transparency and accountability.

Mr. Valles is among dozens of individuals who have died or sustained serious, life threatening injuries in New York City jails in the past two years¹⁰. Indeed, as has been revealed by the monitor, Mr. Valles' death is just one of five highly-suspicious and disturbing incidents that have occurred in Department custody in recent weeks.¹¹

NYCDS shares the monitor's alarm and critical concerns about the Department's handling of this case. By all accounts, the human rights crisis in NYC jails is unprecedented and unconscionable. Based on our extensive dealings with Department staff, operations, and leadership, NYCDS, the NYC communities over-represented on Rikers Island and Mr. Valles' family have no faith in the Department's ability to prevent, manage or accurately report the horrifying events that routinely occur in its facilities. More specifically, we know that the Department fundamentally lacks the ability, candor and basic humanity to accurately investigate the circumstances of Mr. Valles' death.

This case has garnered city, state and national media coverage and the public interest demands that an outside agency investigate this matter and provide Mr. Valles' family with the answers and closure they

¹⁰ Ransom, J. and Bromwich, J. (2023) 'Tracking the Deaths in New York City's Jail System', *New York Times*, 31 May 23, available at <https://www.nytimes.com/article/rikers-deaths-jail.html?s=09>.

¹¹ Special Report of the Nunez Independent Monitor, Office of the Monitor, *Nunez, et al. v. City of New York, et al.*, 11-cv-5845 (LTS) (JCF), Document 533, Filed 05/26/23, available at <https://s3.documentcloud.org/documents/23828480/2023-05-26-special-report.pdf>.

deserve.¹² We are therefore asking Your Offices to immediately intervene and open an investigation into the death of Joshua Valles.

Sincerely,



Stanislawo Germán, Esq.
Executive Director
New York County Defender Services

¹² Media coverage has included: New York Times, *Tracking the Deaths in New York City's Jail System*, N.Y. Times, (May 30, 2023), <https://www.nytimes.com/article/rikers-deaths-jail.html>; Nia Prater, *The Adams Administration Has a New Policy for Jail Deaths: Cover-up*, N.Y. Magazine, (June 1, 2023), <https://nymag.com/intelligencer/2023/06/deaths-at-rikers-city-jails-wont-be-reported-to-the-media.html>; Lisa Rozner, *Death Of Rikers Island Detainee Joshua Valles Raises More Concerns With Department Of Correction*, CBS News, (June 1, 2023), <https://www.cbsnews.com/newyork/news/joshua-valles-rikers-island-detainee-death-raises-more-concerns-nyc-department-of-correction-louis-molina/>; Matt Katz, *Federal Judge Demands Answers After Rikers Detainee Dies With A Fractured Skull*, Gothamist/WNYC, (May 31, 2023), <https://gothamist.com/news/federal-judge-demands-answers-after-rikers-detainee-dies-with-a-fractured-skull>; New York Daily News Editorial Board, *Fractured Trust: Latest Rikers Death Casts Doubt On DOC's Management And Credibility*, (June 2, 2023), <https://www.nydailynews.com/opinion/ny-edit-criminal-justice-jail-prison-joshua-valles-skull-martin-swain-molina-20230602-fck34fn6era2tl2x7aknmm4ybm-story.html>; Courtney Gross, *Monitor Reveals Rikers Detainee Had Skull Fracture, As DOC Faces More Controversy*, Spectrum News/NY1, (June 5, 2023), <https://www.ny1.com/nyc/all-boroughs/politics/2023/05/31/monitor-reveals-rikers-detainee-had-skull-fracture-as-d-oc-faces-more-controversy>; Dan Mannarino and Rebecca Millman, *NYC Public Advocate Jumaane Williams On Rikers Report Detailing Major Concerns At Jail Complex*, Pix 11, (June 4, 2023), <https://pix11.com/news/politics/pixonpolitics/nyc-public-advocate-jumaane-williams-on-rikers-report-detailing-major-concerns-at-jail-complex/>; Sahalie Donaldson and Annie McDonough, *Rikers Officials Chip Away At Transparency Measures*, (June 1, 2023), <https://www.cityandstateny.com/policy/2023/06/rikers-officials-chip-away-transparency-measures/387038>; Rob Abruzzese, *Prisoner Who Died at Rikers Had Fractured Skull, DOC Claims He Died of a Heart Attack*, (June 1, 2023), <https://brooklyneagle.com/articles/2023/06/01/prisoner-who-died-at-rikers-had-fractured-skull-doc-claims-he-died-of-a-heart-attack/>; Nick Pinto, *Rikers Officials Said Joshua Valles Had a Heart Attack. His Autopsy Revealed a Fractured Skull*, Hellgate, (May 30, 2023), <https://hellgatency.com/joshua-valles-dead-after-held-on-rikers>; Reuven Blau, *City Jails No Longer Announcing Deaths Behind Bars, Angering Watchdogs*, The City, (May 31, 2023), <https://www.thecity.nyc/2023/5/31/23744666/correction-jails-not-announcing-deaths-rikers>; Ben Brackfeld, *Third Rikers Detainee Dies This Year As Adams Admin Pushes Back On Damning Federal Report*, AMNY, (May 31, 2023), <https://www.amny.com/police-fire/rikers-island/third-rikers-detainee-dies-this-year-as-adams-admin-pushes-back-on-damning-federal-report/>.