

March 9, 2021

Lisette Camilo, Commissioner
Department of Citywide Administrative Services
1 Centre Street
New York, NY 10007

Dear Commissioner Camilo:

We write in response to your letter of February 18, 2021, in which you decline to provide information about health and safety practices relating to COVID-19 in detention areas of courthouses. Despite DCAS's clear responsibility for "(p)roviding facilities management for 55 public buildings" and "(i)mplementing conservation and safety programs throughout the City's facilities" in your letter you deny a responsibility for maintenance and cleaning of detention areas in New York City's courthouses, fail to provide information about remediation steps taken in areas in which you have declined to upgrade air filtration systems, and direct us to seek information from various other agencies you claim to be responsible for those spaces, including the Office of Court Administration ("OCA"), the Department of Correction ("DOC") and the New York Police Department ("NYPD").

This continued lack of transparency and shifting of attention to other agencies is disappointing in light of DCAS's primary role in ensuring health and safety standards are met in New York City buildings and the interconnected nature of the air filtration systems and overall sanitary conditions in courthouse detention areas. As you stated in your most recent letter, you "(m)anage, operate, and maintain over 55 City-owned buildings, including...City and State court buildings." In your most recent letter you also acknowledge your responsibility for the filtration systems in the courthouses, noting that "(s)etting aside holding cells, DCAS has ensured that all criminal courthouses have ventilation systems equipped with MERV 14 or MERV 15 bag filters." But you continue to fail to explain why DCAS has chosen not to take this same basic safety step in the holding cells.

Your letter attempts to shift responsibility to OCA, DOC, and the NYPD, claiming those agencies are responsible for the "use, maintenance and cleaning" of detention areas. Putting aside the obvious fact that these agencies are not responsible for DCAS's decision to leave detention areas behind when upgrading air filtration systems, we do not accept that DCAS has no role to play in taking steps to mitigate the risk of COVID-19 simply because other agencies are involved.

Even if these other agencies have a role to play in ensuring sanitary conditions in courthouse detention areas, we would expect DCAS to be working closely with them on many of the issues raised in our previous letters dating back to March 2020, such as filtration systems and remediation measures in spaces where air filtration systems cannot be or have not been upgraded to meet health and safety standards necessary to address COVID-19. Indeed, this is the pattern DCAS has followed in other instances. For example, on June 1, 2020, OCA informed us that they would contact you to install soundproofing in the interview booths in arraignments and on June 15, 2020, OCA and MOCJ confirmed that you would be installing soundproofing tiles in all booths as necessary. Instead of providing similar information about what, if any, steps you have taken to ensure the safety of courthouse detention areas, your letter blame-shifts and obscures, undermining our ability to work together to share important information.

In short, your response to our December 2020 letter is not adequate. We ask again that you work with us to provide the information we need, as courts re-open, to ensure the health and safety of our clients and our staff. For all of the courthouse detention areas, including the cells/holding areas listed in your October 26, 2020 chart, please provide the following information:

- Which agency you believe is the “responsible” agency for each space and safety protocol and the documentation upon which you base this belief.
- Which of the holding cells in each of the courts are currently being used, or are expected to be used, upon the reopening of the courts in the near future, and how you communicate with other agencies to ensure that you have the most current information about spaces that are in use or will soon be in use.
- With respect to the holding cells that are in use or expected to be called into use, advise as to their compliance with COVID-19-related ventilation and air filtration standards. Where the cells are not serviced by MERV-13 or above air filtrations systems, advise as to all additional remediation efforts that have been made and/or are planned to address ventilation and safety concerns identified in the holding cells, along with an expected timetable for the completion of the work. Remediation includes, but is not limited to, installation of supplemental ventilation, institution of distancing protocols, cleaning schedules, and ventilation monitoring in accordance with expert recommendations.
- Where you are not specifically responsible for a remediation effort, advise as to the communications you have had with other agencies to ensure that proper remediation is being followed and that no remediation elements are being left undone.

As has been the case with our prior communications, all of the other agencies that you deem jointly responsible for courthouse safety are copied on this letter and they are welcome to respond. We look forward to your prompt response.

Very best regards,

A handwritten signature in blue ink, appearing to read 'Luongo', with a stylized flourish at the end.

Tina Luongo
Attorney-in-Charge, Criminal Defense Practice

cc: Cynthia Brann, Commissioner, New York City Department of Correction
Deanna Logan, Esq., MOCJ
James E. Johnson, Esq., Corporation Counsel
Hon. Lawrence K. Marks, Chief Administrative Judge, OCA