

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

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Matter of JOSEPH AGNEW, ANTHONY GANG,  
TYRONE GREENE and KAMER REID

**MONTHLY COMPLIANCE  
REPORT**

On behalf of themselves and all others similarly situated,  
  
Petitioners,

Index No.: 813431/2021E  
(Taylor, J.)

For a judgment under Article 78 of the Civil Practice  
Law and Rules

-against-

NEW YORK CITY DEPARTMENT OF  
CORRECTION,

Respondent.

-----X

STATE OF NEW YORK )

:SS:

COUNTY OF QUEENS )

**ADA PRESSLEY**, being duly sworn, deposes and says as follows:

1. I am the Bureau Chief of Facility Operations of the New York City Department of Correction (“DOC” or “the Department”). As such, I oversee daily operations of the City’s detention system.

2. I have been employed by DOC for 24 years, beginning in 1997 as a Correction Officer, and rising through the ranks to Captain, Assistant Deputy Warden, Deputy Warden, Deputy Warden in Command, Warden, Assistant Chief, and currently as Bureau Chief.

3. I have been informed by Counsel that this Court has issued an order requiring the Department to provide proof of substantial compliance with various directives

that require the Department to ensure that persons in our custody have timely access to daily sick call. See, New York City Administrative Code § 9-108(c), Correction Law § 500-c(4), and the Rules of the City of New York 40 §§ 3-02(b)(4), (c)(1), (c)(2)(i), and (c)(4)(2).

**I. Access to Sick Call**

4. I submit this affidavit concerning the provision of these services for the period of December 2021. In general, the Department provides daily sick call to persons in custody upon request Monday through Friday (excluding holidays and weekends). The actual medical care is provided by Correctional Health Services (“CHS”), a division of the New York City Health and Hospitals Corporation (“H+H”).

5. Based on my consultation with the Senior Correctional Institutional Administrator of the Department’s Health Affairs Unit, individuals contact CHS by telephones in each housing area to request a sick call visit. CHS makes the determination who needs to be seen and when an individual needs to be seen. CHS sends a ‘call-down’ list advising the facilities which inmates are required to be produced to the clinic on that day. At the appropriate time, facility staff will escort the person to the facility clinic.

6. There are occasions when various services, including access to sick call, cannot be provided as scheduled due to extenuating circumstances. For example, if a violent act occurs inside of the facility, certain housing areas may need to be ‘locked down’ for security reasons, while these circumstances are being abated, and to allow for the ensuing investigation to be completed. In most instances, the sick call services can be resumed following a delay, and in any event, CHS will be notified of the delay.

7. Based upon my consultation with the Senior Correctional Institutional Administrator of the Department’s Health Affairs Unit, in the event a housing

unit is confirmed with COVID-19 exposure, CHS tours the Department's COVID Confirmed housing units and will generally only request the Department bring the individual to the clinic when warranted. However, CHS more routinely requests the Department provide clinic production for Asymptomatic Exposed housing units.

8. Based upon my consultation with the Senior Correctional Institutional Administrator of the Department's Health Affairs Unit, there are also times when a person will change their mind and decline the clinic production. When this occurs, the officer will note the declination in the call-down list provided by CHS. This information is then sent by each facility to the Department's Health Affairs Unit, which enters the data for the clinic production monthly report.

**II. Certification:**

9. The Department's Health Affairs Unit tracks certain statistical information concerning the provision of medical services, such as CHS Sick Call spreadsheet and Monthly Report on Medical Appointment Non-Production. This information is also available to me in the course of my responsibilities, and the DOC Monthly Report on Medical Appointment Non-Production is prepared in the normal course of the Department's operations ("Monthly Report"). In light of this Court's Order, I have been reviewing this data, and if I see an entry that appears unusual, it is now my practice to contact the facility and request either a meeting or a written investigation be conducted to obtain more information.

10. Attached as Exhibit A is a copy of the December 2021 Monthly Report. As the Court can see, this report lists the reasons for non-production; court appearances, visits, production refusal (i.e. when the individual in custody changes their

mind), walkout (i.e. when the individual in custody changes his or her mind at the clinic itself), programming, barbershop, recreation, lack of escort, and other (i.e. when the individual in custody engages in a work assignment or other activity).

11. According to the Department's Monthly Non-Production Report for December 2021, there were 5,268 production refusals for all clinic production and 1,061 instances in which no escort officer was available. I also note that there were 478 non-productions due to court appearances.

12. In addition, the Monthly Report contains a chart documenting the reasons an individual in custody refused to accept clinic services. This includes the categories of: "I do not want this service," or the individual in custody prefers to go at another time. A similar description discusses the instances when the individual in custody changes his or her mind while at the clinic itself.

13. I believe the no-escort notations were affected by the following circumstances. First, the months of December (and January) are periods in which significant numbers of staff schedule their vacations around the holidays. In addition, as we are all aware, beginning around the Summer of 2021, the Department has experienced exceptional staffing difficulties due to reasons associated with the COVID-19 pandemic including but not limited to staff who are considered "Leave Without Pay" due to the COVID-19 vaccine mandate. Most recently, with the advent of the highly contagious and transmissible Omicron Variant, we experienced another spike in absenteeism beginning in December of 2021, an even greater number of staff has been confined to their homes, which has exacerbated the current staffing issues.

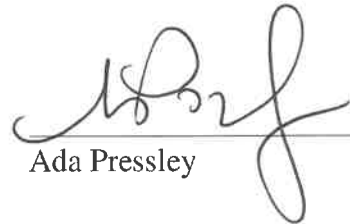
14. I have been informed by Counsel that the Department submitted an

Answer to the Petition describing the steps the Department took to encourage, or in some cases compel, employees to report to their post. Since that time, the Department has implemented twelve-hour staffing tours to ensure adequate staffing on all posts.

15. This information indicates that 90% of persons in custody were escorted for sick call in December 2021 and in total 72% of persons in custody were escorted to the clinic in accordance with the overall clinic production in December 2021.

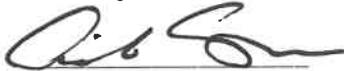
16. In my opinion, I believe this rate of production does not constitute substantial compliance with the pertinent directives to provide timely access to the clinics.

17. In conclusion, I affirm that the above statements are based on a reasonable and good-faith review of the data, in accordance with my experience as a commanding officer in the Department of Correction.

  
Ada Pressley

Dated: January 26, 2022  
Queens, New York

Sworn to before me this  
26 day of Jan, 2022



AISHA SHANNON  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01SH6126219  
Qualified in Bronx County  
My Commission Expires May 2 2024

## **EXHIBIT A**

## New York City Department of Correction Monthly Report on Medical Appointment Non-Production December 2021

*Pursuant to Local Law 132 of 2019, the Department is required to report on a monthly basis an aggregate report on non-production of individuals in custody to scheduled medical appointments. Individuals in custody can refuse an appointment at any time. The Department recognizes the importance of medical care for incarcerated individuals but does not use force to compel them to go to their appointment.*

*Individuals seeking the medical care provided by Correctional Health Services (CHS) can use the Sick Call Triage phoneline to request a medical appointment. Individuals with chronic conditions or those requiring a close follow up appointment frequently have appointments automatically scheduled for them by CHS. The below data represents the non-unique number of incarcerated individuals who were not produced to their CHS scheduled medical appointment for December 2021.*

December 2021 Overall Non-Production Report										
Facility	Court	Visits	Production Refusal <sup>1</sup>	Walkout <sup>2</sup>	Programming	Barbershop	Recreation	No Escort	Other <sup>3</sup>	Total
AMKC	65	0	2,411	22	3	0	0	571	22	3,094
EMTC	34	0	791	0	0	0	0	0	40	865
GRVC	38	0	1,082	19	0	0	0	0	0	1,139
NIC INFIRM	9	0	0	0	0	0	0	44	2	55
NIC MAIN	31	3	0	11	5	0	0	110	57	217
OBCC	16	0	60	0	5	0	0	257	20	358
RMSC	123	1	278	1	0	0	0	31	15	449
RNDC	101	0	55	17	0	0	0	48	0	221
VCBC	61	0	591	0	0	1	5	0	14	672
Total	478	4	5,268	70	13	1	5	1,061	170	7,070

<sup>1</sup> Production Refusal is a term used to describe an incarcerated individual who refuses to be escorted to the clinic for their CHS scheduled medical appointment. In such cases, CHS may reschedule the appointment for a later date.

<sup>2</sup> Walkout is a term used to describe an incarcerated individual who is escorted to the clinic for their CHS scheduled medical appointment but decides to leave the clinic before being seen by a healthcare professional. In such cases, CHS may reschedule the appointment for a later date.

<sup>3</sup> Other includes but is not limited to instances where an incarcerated individual chooses to instead attend a work assignment, law library, school, religious services, or commissary, when an escort is not available, or when movement is limited due to a lockdown, search, or alarm.

**New York City Department of Correction  
Monthly Report on Medical Appointment Non-Production December 2021**

<b>December 2021 Production Refusal Reasons</b>				
<b>Facility</b>	<b>"I Do Not Want The Service/ I Do Not Want to Go to The Service"<sup>4</sup></b>	<b>"I am Not Coming Now and Will Come Later"</b>	<b>No Reason Provided</b>	<b>Total</b>
AMKC	244	0	2,167	<b>2,411</b>
EMTC	0	148	643	<b>791</b>
GRVC	635	0	447	<b>1,082</b>
NIC INFIRM	0	0	0	<b>0</b>
NIC MAIN	0	0	0	<b>0</b>
OBCC	14	0	46	<b>60</b>
RMSC	268	0	10	<b>278</b>
RNDC	55	0	0	<b>55</b>
VCBC	0	0	591	<b>591</b>
<b>Total</b>	<b>1,216</b>	<b>148</b>	<b>3,904</b>	<b>5,268</b>

<b>December 2021 Walkout Reasons</b>				
<b>Facility</b>	<b>"Upon Entry, I do Not Want to Wait"</b>	<b>"I Am No Longer Waiting for the Appointment"</b>	<b>No Reason Provided</b>	<b>Total</b>
AMKC	4	0	18	<b>22</b>
EMTC	0	0	0	<b>0</b>
GRVC	0	19	0	<b>19</b>
NIC INFIRM	0	0	0	<b>0</b>
NIC MAIN	0	0	11	<b>11</b>
OBCC <sup>6</sup>	0	0	0	<b>0</b>
RMSC	1	0	0	<b>1</b>
RNDC	0	0	17	<b>17</b>
VCBC	0	0	0	<b>0</b>
<b>Total</b>	<b>5</b>	<b>19</b>	<b>46</b>	<b>70</b>

<sup>4</sup> The Department aims to produce as many individuals to the clinic as possible. The Department's current staffing level is contributing to the increase in overall non-production numbers.

<sup>5</sup> In some instances, appointments are requested by incarcerated individuals, while in others, CHS schedules follow-up appointments based off their initial assessment. If an individual requests an appointment but no longer wants the service, an additional appointment is scheduled at the discretion of CHS.