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*****FOR IMMEDIATE RELEASE*****

***City Data: DOC Still Denying Incarcerated New Yorkers Access to Medical Care
January Records Reveal that DOC Failed to Produce People for 6,792 Scheduled
Medical Appointments in Local Jails***

(NEW YORK, NY) - **The Legal Aid Society, Brooklyn Defender Services and Milbank LLP** released the following statement in response to City [data showing](#) that the New York City Department of Correction (DOC) [failed to facilitate 6,792 appointments](#) for incarcerated New Yorkers to medical care in City jails for January 2022, an insignificant change from December 2021's rate of 7,070 missed appointments:

“Each day, DOC continues to defy a court order, the law and basic morality by depriving incarcerated New Yorkers access to medical care in local jails. This has caused needless suffering and further underscores DOC's inability to protect the health and safety of people in the Department's custody. We again call for immediate decarceration. We will continue to hold DOC accountable as we argue our contempt motion against DOC in court on Wednesday.”

Background on Agnew v. NYC Department of Correction

On December 3rd, 2021, The Supreme Court of the State of New York County of The Bronx [found](#) that DOC has failed to provide access to medical care for incarcerated New Yorkers in the City jails. The order mandates that DOC immediately remedy these unlawful failures and provide people in its custody with access to medical services.

Recognizing that DOC's failures are far reaching, the [Court certified a class](#) that includes all people in NYC Department of Correction (DOC) jails who have been or will be denied access to medical care because of DOC's failures and designated Legal Aid, Brooklyn Defender Services and Milbank as class counsel.

According to the ruling, DOC must comply with its legal duties to provide medical services to all persons in NYC jails, by:

- providing all class members with access to sick call on weekdays and make sick call available a minimum of five days per week within 24 hours of a request;
- providing sufficient security to allow class members movement to and from health services in the jails;
- not prohibiting or delaying class members' access to care, appropriate treatment, or medical or dental services.

The Court ordered DOC to demonstrate compliance with its order - and these duties - within one week of the date of the order.

Following an admission by a DOC official that the Department is not complying with the December court order to provide basic access to medical care for incarcerated New Yorkers, Legal Aid, Brooklyn Defender Services and Milbank LLP filed a [motion for contempt](#).

Contempt Motion Documents:

Memorandum of Law: https://legalaidnyc.org/wp-content/uploads/2022/02/20220201_105.-MOL-in-Support-of-Their-Order-to-Show-Cause-for-Contempt.pdf

Order to Show Cause: https://legalaidnyc.org/wp-content/uploads/2022/02/20220201_86.-Proposed-Order-to-Show-Cause.pdf

Petrick Affidavit: https://legalaidnyc.org/wp-content/uploads/2022/02/20220201_104.-Sarah-Petrick-Affidavit.pdf

De Avila Affidavit: https://legalaidnyc.org/wp-content/uploads/2022/02/20220201_103.-De-Avila-Supplemental-Addifavit.pdf

The [admission](#) came in an affidavit signed by DOC's Bureau Chief of Facility Operations, which reads in part:

"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."

The affidavit, combined with data demonstrating the barriers to accessing care and countless reports from people in DOC custody who are unable to access critical medical services, provides the basis of the Petitioners' request that the court hold the Department in contempt.

According to its latest Monthly Report on Medical Non-Production for January 2022, DOC reports there were 6,792 total instances of people not being produced for medical appointments last month. This continues to be higher than the rate of November 2021, before the Court issued its emergency order, and an insignificant change from December 2021's rate of 7,070.

DOC claims that 5,294 of January's missed appointments were because people refused, but a review of medical records, statements from incarcerated people, and even a review of DOC's own data shows the [dubiousness of that claim](#). In 3,722 of the reported refusals, DOC admits it cannot provide any explanation for the person refusing. It may be the case that many of these individuals were never even told of their appointment.

Attorneys for Plaintiffs will argue the contempt motion before the Hon. Elizabeth Taylor in New York State Supreme Court - The Bronx on Wednesday, February 16, 2022 at 2:15 PM.

For virtual access, press should contact the New York State Office of Court Administration's press office.

Background on City Jails Crisis

The conditions in the jails have been described as "[deplorable and nothing short of a humanitarian crisis](#)." By failing to provide access to medical care to individuals in its custody, DOC has violated well-established laws. And this failure has directly contributed to immeasurable suffering and the 16 deaths of persons in custody last year.

People under suicide watch who should have been under constant supervision were left alone by DOC staff who abandoned their posts. At least five people being held at Rikers are believed to have died by suicide since November 2020, and the overall levels of self-harm among those imprisoned have increased at a rate described

by the New York City Board of Correction as “alarming.” Other people have suffered from serious health conditions and were in need of treatment, but they were left to fend for themselves.

Former DOC Commissioner Vincent Schiraldi himself admitted that the jails are in a state of crisis, stating “[the level of disorder here is deeply, deeply troubling](#)” and “[the risks to the human beings in our custody are at a crisis level.](#)”

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Brooklyn Defender Services (BDS) is a public defender organization serving tens of thousands of Brooklyn residents each year since 1996. Our mission is to provide high-quality and client-centered criminal, family, and immigration legal representation, as well as civil legal services, social work support and advocacy for people who cannot afford an attorney. www.bds.org

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