

December 11, 2024

Contact:

Audrey Martin, The Legal Aid Society, AMartin@legal-aid.org

Daniel Ball, Brooklyn Defender Services, DBall@bds.org

Diven Faron, Milbank LLP, dfaron@milbank.com

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

Legal Aid, Brooklyn Defenders, Milbank LLP Ask Court to Hold Department of Correction in Contempt for Failing to Provide Incarcerated New Yorkers with Access to Medical Care

DOC Failed to Bring People to Hundreds of Thousands of Health Care Appointments and Regularly Impeded People's Ability to Call for Medical Attention

(NEW YORK, NY) - The Legal Aid Society, Brooklyn Defender Services, and Milbank LLP filed a [reply brief](#) in its class action lawsuit against the New York City Department of Correction (DOC) concerning DOC's failure to provide incarcerated New Yorkers access to medical care. The filing responds to DOC's opposition brief and urges the court to find DOC in contempt, citing overwhelming evidence that DOC has failed to bring people to hundreds of thousands of medical appointments and regularly blocks incarcerated New Yorkers' access to sick call.

In August 2024, Petitioners filed a new [contempt motion](#) in [Agnew v. New York City Department of Correction](#), a [class action lawsuit filed in 2021](#) on behalf of people in DOC custody alleging that DOC was failing to provide access to medical care for thousands of incarcerated people a month. The court issued an [order](#) in December 2021 directing DOC to immediately comply with its legal obligation to provide access to medical care to all persons in New York City jails.

People in DOC custody report numerous ways DOC prevents them from receiving critical healthcare services, including lack of transportation to outside providers, insufficient staff to escort them to appointments, inadequate response to urgent medical situations, and preventing them from leaving their units for medical care during events such as lockdowns. DOC admits that stops people in custody from accessing healthcare by shutting off phone and tablet access during lockdowns and at other times as a disciplinary tactic, preventing people from calling Correctional Health Services (CHS) to request medical care in the first place.

Additionally, many incarcerated people report instances of DOC falsely claiming that they “refused care” when, in many cases, the person did not refuse and, at times, DOC failed to even notify them that they had a medical appointment. And substantial evidence exists that DOC marks people as having refused when the Department simply refused to provide the staff or accommodations needed by the person in custody.

Class member, [Alex Rodriguez](#), recounts that, in a six-month period, DOC has failed to take him to 49 medical appointments for his chronic medical conditions, including a leg injury that required twice-daily care. DOC’s failure to bring him to wound care appointments unnecessarily caused his leg injury to become injected and painful. In several instances, DOC marked his missed appointments as “refusals,” despite Mr. Rodriguez having requested needed treatment.

DOC failed to bring class member, [Daquan Brown](#), to 46 medical appointments to treat his chronic conditions in a 6.5 month period, without any cause or explanation. Mr. Brown noted that officers repeatedly ignore requests for immediate medical attention for non-visible injuries, such as chest pains or asthma attacks.

DOC did not produce class member, [Tony Park](#), to at least 80 scheduled CHS appointments in a seven month period, including several appointments listed as “same day - must see,” causing him unnecessary pain and suffering.

[Justyna Rzewinski](#), a clinical social worker who worked for Correctional Health Services from December 2023 to September 2024, describes in her affidavit how abusive lockdown procedures regularly prevented people from accessing sick call, denied people access to their medication, and caused people to miss medical and mental health appointments, for weeks and sometimes months.

Ms. Rzewinski observed how missed medication and appointments caused people to decompensate and worsened medical conditions that would otherwise be managed with regular access to care. Ms. Rzewinski’s affidavit underscores how DOC falsifies its refusal data, noting in one example, a refusal being noted by a correction officer when a patient was asleep with no attempt to wake him for his appointment.

By DOC’s own admission, DOC has failed in its legal duty to provide access to medical care. In its opposition brief, DOC declared it has failed to produce people to 18% to 31% of all scheduled appointments monthly, over 257,000 total non-productions in the contempt period.

The contempt motion seeks to impose a \$250 fine per health care appointment missed due to DOC’s operational failures payable to the class. If DOC remains noncompliant, the motion asks the court to appoint a monitor to advise DOC on how they can comply with their duty to provide access to healthcare for incarcerated New Yorkers.

“Although this litigation began over three years ago, access to medical care for incarcerated New Yorkers has only continued to deteriorate, further jeopardizing the health and well-being of the people we serve,” said **Veronica Vela, Supervising Attorney with the Prisoners’ Rights Project at The Legal Aid Society**. “The Department of Corrections refusal and failure to provide such a vulnerable population with the medical care they are entitled to is a blatant violation of the law and an affront to basic human dignity. The DOC must be held accountable for this egregious and deliberate indifference toward incarcerated New Yorkers.”

“There is overwhelming evidence that the Department of Correction is still failing to provide people access to medical care,” said **Alyssa Briody, Senior Attorney with Brooklyn Defenders’ Civil Rights & Law Reform Unit**. “Yet DOC continues to shirk its legal responsibilities, falsify data, and endanger the health and safety of New Yorkers in city jails. In the meantime, thousands of people suffer because of missed medical appointments, go without needed medication, and are denied the ability to call for medical attention. We cannot allow this to continue, and we urge the court to hold DOC accountable for its unlawful and inhumane actions.”

“Despite its legal obligations to do so, DOC has failed to provide thousands of people in custody adequate access to medical care for years, leading to devastating outcomes for many,” said **Milbank Litigation partner Katherine Fell**. “We look forward to the day that DOC is held accountable for this unlawful conduct.”

###

The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For nearly 150 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. <https://www.legalaidnyc.org>

Brooklyn Defender Services is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms. www.bds.org