

December 20, 2022

Contact:

Redmond Haskins, The Legal Aid Society, rhaskins@legal-aid.org

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

Jocelyn De Carvalho, Milbank, JDeCarvalho@milbank.com

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

***The Legal Aid Society, Brooklyn Defender Services and Milbank LLP File
Motion to Hold NYC Department of Correction in Contempt for Ongoing Failure
to Provide Incarcerated New Yorkers Access to Medical Care***

***Petitioners Demand That DOC Pay \$3.08M in Fines to Incarcerated New Yorkers
who Missed Critical Medical Appointments from February - October 2022***

***Petitioners Request the Court Grant Hearing on Limiting Population in DOC
Custody***

(NEW YORK, NY) - The Legal Aid Society, Brooklyn Defender Services and Milbank LLP filed a [motion](#) in [Agnew v. New York City Department of Correction](#) (DOC) in Bronx Supreme Court, [requesting the court hold DOC in contempt](#) for its past and ongoing failure to provide incarcerated New Yorkers access to medical care and award a \$250 fine for each missed medical appointment from February to October 2022, totaling over \$3.08 million.

From February to October 2022, there were at least 12,354 instances of denial of access to medical care due to DOC's failure to provide sufficient escorts to bring class members to medical appointments and failure to provide adequate space and security at the clinics. This does not include the many other missed medical appointments that were due to other DOC administrative failures, such as lock-downs, an inadequate system to address medical emergencies, and data discrepancies that suggest DOC staff have falsified refusals to attend clinic appointments, thus allowing DOC to point to refusals as non-productions for which they have no responsibility.

In the event that DOC continues to fail to provide access to medical care, Petitioners ask the Court to grant an evidentiary hearing to determine the maximum number of people for whom DOC can safely provide access to medical care.

This is Petitioners' second contempt motion in this action addressing DOC's failure to follow the Court's December 2021 order requiring DOC to provide and not delay access to medical services for New Yorkers in the city jails. The first motion resulted in a May 2022 finding of contempt and an August 2022 order directing DOC to pay roughly \$200,000 in fines to New Yorkers who were denied access to medical treatment in local jails.

The Legal Aid Society, Brooklyn Defender Services, and Milbank LLP, stated:

“Despite having already been held in contempt by a court, DOC has denied thousands more people access to medical appointments, and the Department must be held in contempt once again for its continued failure to abide by explicit legal obligations and various court orders. People in the jails continue to suffer countless harms from delay and outright denial of access to injury care, chronic care, and critical medications, contributing to the highest death rate in DOC facilities in over 25 years. Given the DOC’s persistent unwillingness to ensure the health and safety of people in its custody, all criminal legal stakeholders must work to facilitate the decarceration of local jails immediately.”

Background on Agnew v. NYC Department of Correction

On December 3, 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 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; and
- 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 was 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 in February 2022.

In May 2022, the Court [found DOC in contempt](#) for failing to follow the December 3rd, 2021 order.

In August 2022, the Court [ordered](#) DOC to pay roughly \$200,000 in fines to New Yorkers who were denied access to medical treatment in local jails, in addition to Plaintiffs’ attorneys fees and costs. In September, DOC appealed this order.

In the year since the court ordered DOC to comply with its duties to provide people in its custody with access to medical care, New York City jails have killed 21 people - the highest death rate in DOC facilities in over 25 years. [Reports](#) from the NYC Board of Correction tie several of these deaths to DOC’s failures to provide access to medical care, and nearly everyone who died in custody missed numerous appointments.

###

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 145 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. 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 by the government. We believe in a client-centered approach and work, in and out of court, to uphold the rights, freedom and dignity of people threatened by unjust, racist and harmful legal systems.
www.bds.org

Milbank LLP is a leading international law firm that provides innovative legal services to clients around the world. Founded in New York over 150 years ago, Milbank has offices in Beijing, Frankfurt, Hong Kong, London, Los Angeles, Munich, New York, São Paulo, Seoul, Singapore, Tokyo and Washington, DC. Milbank's lawyers collaborate across practices and offices to help the world's leading commercial, financial and industrial enterprises, as well as institutions, individuals and governments, achieve their strategic objectives. To learn more about Milbank, please visit www.milbank.com and follow us on [LinkedIn](#), [Twitter](#) and [Instagram](#).
www.milbank.com