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

Legal Aid, Brooklyn Defender Services, Milbank LLP File Motion to Hold Department of Correction in Contempt for Blocking Incarcerated New Yorkers' Access to Medical Care

DOC's Gross Non-compliance With Court Order Has Led to Thousands of Missed Health Care Appointments, Exacerbating Medical Conditions and Pain for New Yorkers in Custody

Missed Medical Appointments Have Steadily Increased Since 2021

(NEW YORK, NY) - The Legal Aid Society, Brooklyn Defender Services, and Milbank LLP today filed a [contempt motion](#) against the New York City Department of Correction (DOC) for their continued failure to provide incarcerated New Yorkers' access to medical care, resulting in thousands of missed medical appointments and dangerous situations for people in custody. These delays and outright denials of access to care lead to unnecessary pain, worsening of treatable conditions, and immense suffering for incarcerated people.

Notice of motion: <https://tinyurl.com/bdmt5uem>

Plaintiff affidavits: <https://tinyurl.com/ey848pn5>

Memorandum of law: <https://tinyurl.com/bda973k8>

The contempt motion was filed 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.

Yet DOC continues to fail in its legal duties. Non-productions — referring to instances when an incarcerated person is not brought to their medical appointment — rose from 7,671 in October 2021 to 12,224 in May 2024, representing approximately 25% of all scheduled appointments.

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 also stops people in custody from accessing healthcare by shutting off phone 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, a staggering number of 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.

Client Summaries

- Johnny Basnight, who cannot walk due to his injured knee, requested a wheelchair to safely get to a radiology appointment. DOC denied his request, and Mr. Basnight subsequently missed his appointment. DOC then falsely reported to CHS that Mr. Basnight refused care. “I did not refuse to go,” stated Mr. Basnight in an affidavit for this motion. “I simply requested an accommodation – a wheelchair – to allow me to safely access medical services while injured.”
- Matthew Claire, who on the morning of an appointment he had been looking forward to for months after sustaining a serious collarbone injury, was asked by DOC staff to sign a refusal form after being told by a DOC staff member that there was no DOC driver available to take him to his appointment. “I do not want my doctors to think that I do not want their help, because I do want and need their help,” wrote Mr. Claire in an affidavit for this motion. “But DOC needs to do its part to provide me with access [to] medical care, rather than asking me to take the blame for its own failure to provide a driver.”

- Jose De Sala-Garcia suffered a shoulder injury in June 2022 that causes persistent pain and restricts his mobility. In October 2023, Mr. De Sala-Garcia called the CHS sick call line to request treatment for his injury, and, despite being told he was on the “medical calldown list,” Mr. De Sala-Garcia was not brought in for an appointment. He called CHS twice more before he was finally seen two months later. Mr. De Sala-Garcia stated that while he was awaiting treatment, he began to believe CHS was lying about his being on the calldown list; however, upon reviewing his records, he realized that DOC was simply not bringing him to his scheduled appointments.
- Kevin Gamble reported missing hundreds of medical appointments. Mr. Gamble, who suffers from diabetes mellitus and requires daily medical care including blood tests and insulin injections, missed 212 medical appointments between January 1, 2023 and July 15, 2023, according to his CHS medical records — more than one missed appointment per day.
- Clifford McClinton, due to his irregular heartbeat, chest pain, and fainting, had a “loop recorder” implanted into his chest in March 2023 to monitor his heartbeat and help with a proper diagnosis. Since then, DOC officers have failed to take Mr. McClinton to his regularly scheduled follow-up appointments at Bellevue Hospital on four separate occasions. He stated in an affidavit that, “on those days when I am waiting to go to Bellevue I get anxious, and it feels as if the walls are closing in. My mother and aunt both had heart attacks. I don’t know how serious my heart condition is, and I wonder if I could die from it.”

The litany of missed appointments contributes to immense stress and worsening of painful medical conditions that could otherwise be managed with regular healthcare visits.

This motion comes just weeks after the tragic death of [Charizma Jones](#), just 23-years-old, who was denied access to care during a medical emergency while incarcerated at Rikers Island. After DOC officers repeatedly blocked medical staff from treating her, Ms. Jones later died at a local hospital, prompting the New York City Department of Investigation, New York City Board of Correction (BOC), and the New York State Commission of Correction to open [investigations](#) into her death

“Incarcerated New Yorkers have a right to access medical care while in custody, and the DOC’s continued failure to comply with the law and any semblance of humanity, is beyond the pale,” said **Veronica Vela, Supervising Attorney with the Prisoners’ Rights Project at The Legal Aid Society**. “Since this case was first brought in 2021, access to medical care in City’s jails has only worsened, and the Department lacks both the basic competence and willingness to rectify

this situation. As such, we're asking a court to hold them once again in contempt for this abject cruelty.”

“DOC’s persistent failure to provide access to medical care endangers the health and lives of incarcerated New Yorkers,” **said Alyssa Briody, Senior Attorney with Brooklyn Defenders’ Civil Rights & Law Reform Unit.** “People wait in pain and fear as their chronic conditions deteriorate, their medical issues become severe, and their urgent requests for emergency care are ignored. While people suffer, DOC flouts a court order to improve access to care and manipulates its data in an attempt to absolve itself of responsibility. DOC’s indifference to the health of the people in its custody cannot be allowed to continue.”

“Incarcerated New Yorkers are an extremely vulnerable population,” said **Russell Spivak, associate at Milbank LLP.** “It is unconscionable that the delivery of priority healthcare services to these individuals, for which DOC is responsible, was compromised.”

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.

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