



Legislative Affairs
One Whitehall Street
New York, NY 10004
212-607-3300
www.nyclu.org

**Testimony of Allie Bohm
On Behalf of the New York Civil Liberties Union
Before the New York City Council Committees on Health and Hospitals
Regarding Oversight – Vaccine Hesitancy and Equity in NYC?**

September 30, 2021

The New York Civil Liberties Union (NYCLU) is grateful for the opportunity to submit the following testimony regarding oversight of vaccine hesitancy and equity in New York City. The NYCLU, the New York state affiliate of the American Civil Liberties Union, is a not-for-profit, nonpartisan organization with eight offices across the state and over 180,000 members and supporters. The NYCLU defends and promotes the fundamental principles and values embodied in the Bill of Rights, the U.S. Constitution, and the New York Constitution through an integrated program of litigation, legislative advocacy, public education, and community organizing.

When Mayor De Blasio began announcing citywide vaccine mandates, he insisted that the City had done everything it could to achieve voluntary vaccination.¹ This assertion is demonstrably inaccurate.

The initial vaccine roll-out strategy focused on mass vaccination sites and the pharmacy network for vaccine delivery, a network that the City well knew was woefully inadequate in the neighborhoods hardest hit by COVID-19. To provide but one illustration, District 16 in Brooklyn, which is home to the highest percentage of New York City’s population living below the poverty line, until very recently, had zero vaccination sites.² Indeed, vaccine rollout sidelined community-based organizations (CBOs), safety-net providers, senior centers, and others who are trusted providers for our Black, Latinx, brown, immigrant, disabled, and low-income communities and who know how to meet those communities where they are.

¹ *Ask The Mayor: Vaccine Mandates, COVID Safety In Schools, Street Vendors And More*, THE BRIAN LEHRER SHOW, July 23, 2021, <https://www.wnyc.org/story/ask-mayor-0722/>.

² *E.g.* Natasha Williams, Haleigh Tutrow, Paulo Pina, et al, *Assessment of Racial and Ethnic Disparities in Access to COVID-19 Vaccination Sites in Brooklyn, New York*, JAMA NETWORK OPEN 1 (2021) (“The median (range) number of vaccination sites (4 [0-5]) among districts with less than 40% White (non-Hispanic) race/ethnicity was less than the number of vaccination sites (6 [3-8]) among districts with greater than or equal to 40% White (non-Hispanic) race/ethnicity . . . Of note, district 16 had the highest percentage of the population below the poverty threshold (29.4%) and has 0 vaccination sites.”).

To this day, problems with vaccine distribution persist. For example, CBOs and others wishing to hold vaccine events and requesting mobile vaccine vans often do not know whether they will be able to secure a van until a couple of days before the event – when it is too late to effectively recruit.³

Even when vaccination sites are available, too many New Yorkers fear that there will be negative immigration consequences associated with receiving a vaccine.⁴ Others, whether for fear of criminalization, having their children taken away, or any other reason, worry about sharing personal information with the government or private companies to receive a vaccine. Although the City has broadcast messages about immigration status on LinkNYC kiosks, the City and State have done precious little when it comes to implementing legally binding privacy protections.⁵

In addition, too many people have been turned away from vaccination sites, because they lack identification.⁶ And, some low-income New Yorkers remain unvaccinated because they cannot afford to take time off from work to recover from vaccine side effects, which most often occur the day after vaccination.⁷

³ *E.g.* COUNCILMEMBER BROOKS-POWERS, NEW YORK CITY COUNCIL COMMITTEES ON HEALTH, AGING, AND TECHNOLOGY ON OVERSIGHT – VACCINE HESITANCY & EQUITY IN NYC? (2021).

⁴ *See* Press Release, Kaiser Family Foundation, Vaccine Monitor: Unvaccinated Hispanic Adults are Twice as Likely as White Adults to Want a COVID-19 Vaccine ASAP, Highlighting a Key Outreach Opportunity for Vaccination Efforts (June 14, 2021) (<https://connect.kff.org/vaccine-monitor-unvaccinated-hispanic-adults-are-twice-as-likely-as-white-adults-to-want-a-covid-19-vaccine-asap>) (“4 in 10 unvaccinated Hispanic adults (39%) say they are concerned that they might be required to provide a Social Security number or government-issued identification to get vaccinated, and about a third (35%) are concerned that getting a vaccine might negatively affect their own or a family member’s immigration status.”); Rachel Roubein & Dan Goldberg, *Rush to close vaccination gap for Hispanics*, POLITICO, June 27, 2021, <https://www.politico.com/news/2021/06/27/hispanic-vaccination-gap-covid-barriers-496394> (“One-third of unvaccinated Hispanics said they believed receiving a Covid vaccine could complicate immigration status for themselves or their family, despite the Biden administration’s assurances that it would not, according to a national survey from the African American Research Collaborative and the Commonwealth Fund . . .”).

⁵ For example, vaccine confidentiality, A.7326/S.6541, 2021-2022 Reg. Sess. (N.Y. 2021) passed the State Assembly unanimously, but the Senate failed to take up the legislation; *see generally* NYCLU, TESTIMONY BEFORE THE NEW YORK CITY COUNCIL COMMITTEES ON HEALTH AND HOSPITALS REGARDING OVERSIGHT OF NYC’S COVID-19 TESTING AND CONTACT TRACING PROGRAM, PART II (2020); NYCLU, TESTIMONY BEFORE THE NEW YORK CITY COUNCIL COMMITTEES ON HEALTH AND HOSPITALS REGARDING OVERSIGHT OF COVID-19 VACCINE DISTRIBUTION & ACCESSIBILITY IN NYC (2021).

⁶ Conversation with Melissa Baker, Chief Operating Officer, National Black Leadership Commission on Health (June 17, 2021).

⁷ *See* Press Release, Kaiser Family Foundation, Vaccine Monitor: Unvaccinated Hispanic Adults are Twice as Likely as White Adults to Want a COVID-19 Vaccine ASAP, Highlighting a Key Outreach Opportunity for Vaccination Efforts (June 14, 2021) (<https://connect.kff.org/vaccine-monitor-unvaccinated-hispanic-adults-are-twice-as-likely-as-white-adults-to-want-a-covid-19-vaccine-asap>) (“Among all unvaccinated Hispanic adults, nearly two thirds (64%) are concerned about missing work due to side effects”). Although New York grants workers four hours paid leave to receive a vaccine, *Paid Leave for COVID-19 Vaccinations*, NEW YORK DEPT OF LABOR, May 2021, <https://dol.ny.gov/system/files/documents/2021/05/cd6-paid-leave-for-covid19-vaccinations-5-18->

As if those hurdles were not enough, vaccine sign-ups have taken place primarily in English and primarily online when many in New York’s most marginalized communities do not speak English or have access to the internet.⁸ Even during today’s hearing, witnesses reported that vaccination sites still lack reliable interpretation and that their members are not always sufficiently technologically savvy to access remote interpretation services.⁹

The City has also been aware of well-founded vaccine skepticism, rooted in a long history of medical experimentation, forced sterilizations, and other medical mistreatment in Black, American Indian, Latinx, brown, immigrant, disabled, and low-income communities in the United States. Many, particularly in the Black community, remember the Tuskegee syphilis study – when, in the 1930s, the U.S. government studied the trajectory of untreated syphilis in hundreds of Black men, both concealing the nature of their research and withholding effective treatment after one had been identified – as well as surgical experimentation on enslaved people.¹⁰ To individuals who still face stark disparities in the U.S. health care system,¹¹ Tuskegee feels ever-present. Black patients suffering from appendicitis, broken bones, and other serious conditions are less likely to be offered painkillers than white

21.pdf#:~:text=Every%20employee%20shall%20be%20provided,by%20the%20employer%2C%20to%20be, that time applies only to receipt of the actual vaccine and not to recovery time for side effects.

⁸ About 30 percent of Latinx and Black New Yorkers lack broadband internet access, compared with 20 percent of white New Yorkers. SCOTT M. STRINGER, CENSUS AND THE CITY: OVERCOMING NYC’S DIGITAL DIVIDE IN THE 2020 CENSUS 5 (July 2019). Nationwide, half of all adults ages 65 and older do not have home internet access, and one-third of that population reported in 2019 that they had never used the internet. Jessica Fields, *We are leaving older adults out of the digital world*, TECHCRUNCH, May 5, 2019, <https://techcrunch.com/2019/05/05/we-are-leaving-older-adults-out-of-the-digital-world/>. Forty-six percent of New York City households living below the poverty line – a category that disproportionately includes essential workers – also lack home internet access. *Mayor de Blasio and Taskforce on Racial Inclusion and Equity Announce Accelerated Internet Master Plan to Support Communities Hardest-Hit by COVID-19*, NYC, July 7, 2020, <https://www1.nyc.gov/office-of-the-mayor/news/499-20/mayor-de-blasio-taskforce-racial-inclusion-equity-accelerated-internet-master>. See generally NYCLU, TESTIMONY BEFORE THE NEW YORK CITY COUNCIL COMMITTEES ON HEALTH, AGING, AND TECHNOLOGY ON OVERSIGHT - COVID-19 AND SENIORS: ADDRESSING EQUITY, ACCESS TO THE VACCINE, AND SCHEDULING VACCINATION APPOINTMENTS ONLINE IN NYC (2021); Letter from COVID-19 Working Group to Dr. Howard Zucker, Commissioner, New York State Department of Health, Dr. Dave A. Chokshi, Commissioner, New York City Department of Health & Mental Hygiene, & Dr. Mitchell Katz, President & Chief Executive Officer, New York City Health + Hospitals (Feb. 12, 2021) (<https://static1.squarespace.com/static/5e6fd0a65abcc54f238eae48/t/602b288efc027e852f7129/1613441167335/Vaccine+Equity+Sign-on+Letter+2-11-21.pdf>).

⁹ KAVERI SENGUPTA, COALITION FOR ASIAN AMERICAN CHILDREN & FAMILIES, NEW YORK CITY COUNCIL COMMITTEES ON HEALTH, AGING, AND TECHNOLOGY ON OVERSIGHT – VACCINE HESITANCY & EQUITY IN NYC? (2021).

¹⁰ Peter Jamison, *Anti-vaccination leaders fuel [B]lack mistrust of medical establishment as covid-19 kills people of color*, WASH. PO., July 17, 2020, https://www.washingtonpost.com/dc-md-va/2020/07/17/black-anti-vaccine-coronavirus-tuskegee-syphilis/?hpid=hp_hp-banner-main_black-antivax-940am%3Ahomepage%2Fstory-ans.

¹¹ Khiara M. Bridges, *Implicit Bias and Racial Disparities in Health Care*, 43 ABA HUMAN RIGHTS MAGAZINE (2018).

patients,¹² and in 2016 researchers found that half of white medical students surveyed “were willing to entertain one or more false statements about biological differences based on race, such as the notion that African Americans have less-sensitive nerve endings than whites.”¹³ In fact, COVID-19 researchers are using a cell line that originated from Henrietta Lacks, a Black woman whose cells were harvested without her knowledge and consent. And, although research done with so-called HeLa cells “underpin[] much of modern medicine . . . [n]one of the biotechnology or other companies that profited from her cells passed any money back to her family.”¹⁴

Indigenous Americans, too, have survived “significant unethical research and medical care” since colonization.¹⁵ Latinx New Yorkers remember that between the 1930s and the 1970s, approximately one-third of Puerto Rican women and girls were forcibly sterilized.¹⁶ This history feels strikingly present as immigrants detained in ICE facilities in Georgia in the last year reported forced hysterectomies.¹⁷ Against this backdrop, it is no wonder that some communities are skeptical of vaccines, particularly if pushed too forcefully upon them when the vaccine is new.¹⁸

Once again, the City failed to prioritize cultural and linguistic competence and meaningful community engagement, relying instead on external contractors and agencies rather than utilizing local expertise and building community-level capacity – even though we know that

¹² Peter Jamison, *Anti-vaccination leaders fuel [B]lack mistrust of medical establishment as covid-19 kills people of color*, WASH. PO., July 17, 2020, https://www.washingtonpost.com/dc-md-va/2020/07/17/black-anti-vaccine-coronavirus-tuskegee-syphilis/?hpid=hp_hp-banner-main_black-antivax-940am%3Ahomepage%2Fstory-ans.

¹³ *Id.*; Sandhya Somashekhar, *The disturbing reason some African American patients may be undertreated for pain*, WASH. PO., Apr. 5, 2016, <https://www.washingtonpost.com/news/to-your-health/wp/2016/04/04/do-blacks-feel-less-pain-than-whites-their-doctors-may-think-so/>.

¹⁴ *Henrietta Lacks: science must right a historical wrong*, NATURE, Sept. 1, 2020, <https://www.nature.com/articles/d41586-020-02494-z>.

¹⁵ See Felicia Schanche Hodge, *No Meaningful Apology for American Indian Unethical Research Abuses*, 22 ETHICS & BEHAVIOR 431 (2012).

¹⁶ Katherine Andrews, *The Dark History of Forced Sterilization of Latina Women*, UNIV. OF PITTSBURGH, Oct. 30, 2017, <https://www.panoramas.pitt.edu/health-and-society/dark-history-forced-sterilization-latina-women>.

¹⁷ Caitlin Dickerson, Seth Freed Wessler, & Miriam Jordan, *Immigrants Say They Were Pressured Into Unneeded Surgeries*, N.Y. TIMES, Sept. 29, 2020, <https://www.nytimes.com/2020/09/29/us/ice-hysterectomies-surgeries-georgia.html>.

¹⁸ *E.g.* Desi Rodriguez-Lonebear, PhD (@native4data), Twitter (Nov. 25, 2020), <https://twitter.com/native4data/status/1331818437211955204>. Nearly half of Black people in the U.S. say they will avoid a vaccine “even if scientists deem it safe and it is available for free,” and 40% of Hispanic adults expressed skepticism about getting vaccinated while “two-thirds of white people said they would definitely or probably get vaccinated.” Press Release, Kaiser Family Foundation & The Undeclared, New Nationwide Poll by the Kaiser Family Foundation and The Undeclared Reveals Distrust of the Health Care System Among Black Americans (Oct. 13, 2020) (<https://www.kff.org/racial-equity-and-health-policy/press-release/new-nationwide-poll-by-the-kaiser-family-foundation-and-the-undeclared-reveals-distrust-of-the-health-care-system-among-black-americans/>).

just as community members have been more effective at convincing their neighbors to wear masks and adhere to social distancing,¹⁹ community members and organizations are more likely than outsiders to know how to listen to and answer their neighbors' legitimate concerns and convince their neighbors to get vaccinated.

But, it did not have to be like this. Myriad CBOs, safety-net providers, senior centers, and community members have offered to assist in ensuring that pandemic response generally and vaccines, specifically, reach their communities. They have done so in testimony before this body, in Community Advisory Board meetings, and in private and public letters to and meetings with the Department of Health and Mental Hygiene, Health + Hospitals, and City Hall.²⁰ The City should finally take them up on their offer.

In particular, the City should consult with CBOs on the placement of vaccination sites and other strategic decisions; partner with and fund CBOs to engage harder to reach populations; pair every vaccination site with CBOs or connector organizations to facilitate effective outreach; employ and resource CBOs to staff outreach teams; work with CBOs to design funding opportunities to reach smaller grassroots CBOs that do not have the capacity to find, write, administer, and report on large grants themselves; incentivize and support well-connected and larger CBOs to work with smaller CBOs with strong community ties; provide support to smaller CBOs seeking vaccine allocations; and increase CBO influence on and access to the placement of mobile vaccination units.

The City's mistakes have cost countless lives and caused untold suffering. The City cannot undo that harm, but it can – and must – change course going forward. A pandemic recovery that includes all of our communities depends on it.

The NYCLU thanks the Committees for the opportunity to provide testimony and for their consideration of this critically important issue.

¹⁹ Ashley Southall, *Police Face Backlash Over Virus Rules. Enter 'Violence Interrupters.'*, N.Y. TIMES, May 22, 2020, <https://www.nytimes.com/2020/05/22/nyregion/Coronavirus-social-distancing-violence-interrupters.html>.

²⁰ *E.g.* NEW YORK CITY COUNCIL COMMITTEES ON HEALTH, AGING, AND TECHNOLOGY ON OVERSIGHT - COVID-19 AND SENIORS: ADDRESSING EQUITY, ACCESS TO THE VACCINE, AND SCHEDULING VACCINATION APPOINTMENTS ONLINE IN NYC (2021); NEW YORK CITY COUNCIL COMMITTEES ON HEALTH AND HOSPITALS ON OVERSIGHT - COVID-19 VACCINE DISTRIBUTION & ACCESSIBILITY IN NYC (2021); Letter from COVID-19 Working Group to Dr. Howard Zucker, Commissioner, New York State Department of Health, Dr. Dave A. Chokshi, Commissioner, New York City Department of Health & Mental Hygiene, & Dr. Mitchell Katz, President & Chief Executive Officer, New York City Health + Hospitals (Feb. 12, 2021) (<https://static1.squarespace.com/static/5e6fd0a65abcc54f238eae48/t/602b288efcff027e852f7129/1613441167335/Vaccine+Equity+Sign-on+Letter+2-11-21.pdf>).