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**Testimony of Allie Bohm
On Behalf of the New York Civil Liberties Union
Before the New York City Council Committees on Health, Aging, and
Technology Regarding Oversight – COVID-19 and Seniors: Addressing
Equity, Access to the Vaccine, and Scheduling Vaccination Appointments
Online in NYC**

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The New York Civil Liberties Union (NYCLU) is grateful for the opportunity to submit the following testimony regarding oversight of COVID-19 and Seniors: Addressing Equity, Access to the Vaccine, and Scheduling Vaccination Appointments Online in NYC. 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.

Adults ages 65 and older are 16% of the U.S. population, but have experienced 80% of COVID-related deaths.¹ At the same time that this population faces great risks from COVID-19, they also contend with the increased risks of depression, anxiety, dementia, and early death that accompany isolation as they seek to avoid contracting COVID-19.² These facts underscore the urgency both of this hearing and of prioritizing timely vaccination of New York City’s seniors.

Still, as the Committees focus on seniors’ access to vaccines, it is critical to pay particular attention to which seniors have access to vaccines. New York City is nearly 25% Black,

¹ Meredith Freed, Juliette Cubanski, Tricia Neuman, Jennifer Kates, & Josh Michaud, *What Share of People Who Have Died of COVID-19 Are 65 and Older – and How Does It Vary By State?*, KAISER FAMILY FOUNDATION, July 24, 2020, <https://www.kff.org/coronavirus-covid-19/issue-brief/what-share-of-people-who-have-died-of-covid-19-are-65-and-older-and-how-does-it-vary-by-state/>.

² COUNCILMEMBER CHIN, 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).

nearly 30% Latinx, and about 14% Asian,³ and yet nearly half of all New York City residents ages 65 and older who have been vaccinated, and whose race is known,⁴ are white.⁵ Only 15% are Latinx, and 12% are Black; 13% are Asian.⁶ The City's vaccine tracker by zip code paints a similarly galling picture. While 11% of adults in Riverdale, 12% of adults on the Upper West Side, and 17% of adults on Lenox Hill in the Upper East Side are fully vaccinated, only 2% of adults in Corona, Queens and Cypress Hills/East New York and 1% of adults in Hunts Point have been fully vaccinated.⁷ This sample represents a pattern that repeats throughout the map: wealthier, whiter neighborhoods are receiving vaccines at much higher rates than the poorer neighborhoods that are disproportionately home to Black, brown, and Asian communities, essential workers, and – relatedly – those who have already borne the brunt of the coronavirus pandemic.⁸ The barriers to vaccination should be familiar by now, but this testimony will describe several of them and offer solutions to help the vaccine reach the communities that need it the most.

Internet and Language Access and Transportation

The vast majority of vaccine sign-ups take place online. Although the City has developed a hotline for New Yorkers to make appointments, that phone line is often overwhelmed, frequently delivers only an automated recording that no appointments remain, and, moreover, only accommodates English and Spanish speakers.⁹ An effectively online only registration system specifically disadvantages seniors. Nationwide, half of all adults ages 65+ do not have home internet access, and one-third of that population reported in 2019 that they had never used the internet.¹⁰ Those seniors lucky enough to be internet savvy, or to have family or friends who can help, must navigate to each provider's website to try to register for one of precious few vaccination slots, often answering the same intake questions

³ *QuickFacts: New York city, New York; New York*, UNITED STATES CENSUS, <https://www.census.gov/quickfacts/fact/table/newyorkcitynewyork,NY/PST045219> (last visited Feb. 18, 2021).

⁴ Twenty-nine percent of vaccine recipients' race and ethnicity are unknown, an appallingly high number that suggests that providers have not received adequate training in non-stigmatizing ways to ask demographic questions and collect demographic information. *COVID-19 Vaccine Tracker*, NYC HEALTH, <https://www1.nyc.gov/site/doh/covid/covid-19-data-vaccines.page> (last visited Feb. 18, 2021).

⁵ *Id.*

⁶ *Id.*

⁷ *NYC Adults Vaccinated by ZIP Code*, NYC HEALTH, <https://www1.nyc.gov/site/doh/covid/covid-19-data-vaccines.page> (last visited Feb. 18, 2021).

⁸ *Fatalities*, NYS DEP'T OF HEALTH, <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Fatalities?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n> (last visited May 26, 2020); see also *The Color of Coronavirus: COVID-19 Deaths By Race And Ethnicity in the U.S.*, AMP RESEARCH LAB, May 20, 2020, <https://www.apmresearchlab.org/covid/deaths-by-race>; John Eligon, Audra D.S. Burch, Dionne Searcey, & Richard A. Oppel Jr., *Black Americans Face Alarming Rates of Coronavirus Infection in Some States*, N.Y. TIMES, Apr. 14, 2020, <https://www.nytimes.com/2020/04/07/us/coronavirus-race.html>.

⁹ COUNCILMEMBER MENCHACA, NEW YORK CITY COUNCIL COMMITTEES ON HEALTH AND HOSPITALS ON OVERSIGHT - COVID-19 VACCINE DISTRIBUTION & ACCESSIBILITY IN NYC (2021).

¹⁰ 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/>.

over and over again with each new attempt,¹¹ a time intensive-process that favors those who have the advantages of more flexible time, greater internet savvy, and English proficiency. Many who have been able to make an appointment face transportation barriers to arriving at that appointment,¹² or when they do arrive, find that none of the workers on site speak their language.¹³

City Council can – and must – fix these problems. We are pleased to see Chair Levine’s preconsidered Int. 2021-7143 to require DOHMH to create a unified scheduling system, in all designated citywide languages, for COVID-19 vaccinations. This is an important first step, but it is not enough because the digital divide remains a persistent barrier. New York City must also develop an effective, language-accessible means for individuals to sign-up for vaccine appointments by phone.

And while we are grateful that the Mayor’s office has announced a plan for the City to offer transportation to seniors who need it to access vaccines,¹⁴ we are cognizant that this program requires separate sign-up, forcing would-be vaccine recipients to run another gauntlet after securing an appointment. Ideally, an integrated call center should both schedule vaccine appointments and arrange transportation for those who need it.

In addition to providing transportation, the City Council must do more to ensure that individuals – and particularly seniors – can be vaccinated – without substantial wait times – in their own neighborhoods. One way to do this is to require the vaccination pods and hubs, particularly those located in low-income neighborhoods, to give priority to local residents.

Moreover, the City must support vaccination programs within the existing community-based health care providers, because these health centers are deeply integrated into their communities and are trusted sources of care for the populations they serve. It should also partner with community-based organizations and senior centers to establish additional vaccination sites that are local, culturally competent, and linguistically inclusive, because these community-based organizations are the experts in reaching their own communities.

We understand that the City has begun pilot programs that give local community groups blocks of vaccine appointments to fill with qualifying residents. These programs must

¹¹ Sydney Pereia, *New Yorkers Eligible for COVID Vaccine Report Frustrations With City Registration Websites*, GOTHAMIST, Jan. 11, 2021, <https://gothamist.com/news/new-yorkers-eligible-vaccine-report-frustrations-city-registration-websites>.

¹² See generally Jenni Bergal, *Without a Ride, Many in Need Have No Shot at COVID-19 Vaccine*, PEW STATELINE, Feb. 1, 2021, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/02/01/without-a-ride-many-in-need-have-no-shot-at-covid-19-vaccine>.

¹³ E.g., Josefa Velasquez, *Outsiders Get Vaccinated at Washington Heights Armory Cuomo Touted as Combatting COVID ‘Inequity’*, THE CITY, Jan. 26, 2021, <https://www.thecity.nyc/coronavirus/2021/1/26/22251524/vaccines-washington-heights-armory>.

¹⁴ Press Release, NYC, *Vaccine for All: City to Offer Transportation for NYC Seniors* (January 17, 2021) (<https://www1.nyc.gov/office-of-the-mayor/news/035-21/vaccine-all-city-offer-transportation-nyc-seniors>).

continue and be expanded. And, the City should engage in a culturally competent and linguistically inclusive public education campaign to ensure that all of our communities know where they can receive vaccines.

Furthermore, each vaccine site must have staff on site who speak the languages prevalent in their neighborhoods. They must further have access to a language line to provide appropriate and timely translation for those who speak less common languages.

Homebound Seniors

In addition to making it easier for seniors who can travel to receive vaccines, the Committees are right to focus on homebound seniors, who face some of the most intense isolation during the pandemic. We are encouraged by Councilmember Treyger's Int. 2225-2021 that would require the establishment of a plan to vaccinate homebound seniors. While we understand that Mayor de Blasio has already announced a plan,¹⁵ we are concerned that this plan relies on the Johnson & Johnson vaccine, which has experienced manufacturing delays¹⁶ – meaning that there will be a longer delay before the homebound are vaccinated. Moreover, this plan offers a particularly vulnerable population a less effective vaccine compared to Pfizer and Moderna.¹⁷ There is no reason to wait for – or rely on – the Johnson & Johnson vaccine when other states, such as Vermont, have begun to vaccinate their homebound seniors with existing vaccine supplies.¹⁸ Rather, the City should work with organizations, like Meals on Wheels, that have expertise bringing cold deliveries to homebound seniors and which are already trusted service providers for this population.¹⁹

Moreover, the City must prioritize vaccinating those who provide deliveries to homebound seniors, as well as their family members who serve as caretakers, in addition to the seniors themselves and the home health aides whom Mayor de Blasio has prioritized.²⁰ Particularly

¹⁵ Natalie Rahhal, *NYC will use Johnson & Johnson's easily stored one-shot COVID-19 vaccine to reach homebound seniors, Mayor de Blasio says*, UK DAILY MAIL, Feb. 16, 2021, <https://www.dailymail.co.uk/health/article-9267943/NYC-use-J-Js-one-dose-shot-vaccinate-homebound-seniors.html>.

¹⁶ Noah Higgins-Dunn, *Dr. Fauci slightly delays timeline for widespread vaccine availability in U.S. to May*, CNBC, Feb. 16, 2021, <https://www.cnn.com/2021/02/16/dr-fauci-slightly-delays-timeline-for-widespread-vaccine-availability-in-the-us-to-may-.html>.

¹⁷ Ben Adams, *J&J single shot sees 66% efficacy in moderate COVID-19, 85% in severe cases; shares fall*, FIERCE BIOTECH, Jan. 29, 2021, <https://www.fiercebiotech.com/biotech/j-j-single-shot-sees-66-efficacy-moderate-covid-85-severe-cases-shares-fall>.

¹⁸ *E.g., Vaccination Program for Homebound Vermonters Begins*, VERMONTBIZ, Feb. 5, 2021, <https://vermontbiz.com/news/2021/february/05/vdh-covid-19-update-covax-program-homebound-seniors-begins-do-hs-sports>.

¹⁹ RACHEL SHERROW, CITYMEALS ON WHEELS, 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).

²⁰ Natalie Rahhal, *NYC will use Johnson & Johnson's easily stored one-shot COVID-19 vaccine to reach homebound seniors, Mayor de Blasio says*, UK DAILY MAIL, Feb. 16, 2021,

in low-income communities and communities of color, family members act as caregivers for homebound seniors more often than home health aides do.²¹ Because homebound seniors are, by definition, homebound, their biggest risk of contracting COVID-19 comes from the individuals who enter their homes to provide care or make deliveries, and the best way to protect these seniors is to protect those who take care of them.

Vaccine Hesitance

It is imperative that the City make it as easy and convenient as possible for seniors to sign-up for vaccines, travel to vaccination sites, and receive vaccines. At the same time, the City must do more to address well-founded vaccine hesitance.

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.²² To individuals who still face stark disparities in the U.S. health care system,²³ Tuskegee feels ever-present. Black patients suffering from appendicitis, broken bones, and other serious conditions are less likely to be offered painkillers than white patients,²⁴ 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.”²⁵ 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.”²⁶

<https://www.dailymail.co.uk/health/article-9267943/NYC-use-J-Js-one-dose-shot-vaccinate-homebound-seniors.html>.

²¹ COUNCILMEMBER TREYGER, 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).

²² 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.

²³ Khiara M. Bridges, *Implicit Bias and Racial Disparities in Health Care*, 43 ABA HUMAN RIGHTS MAGAZINE (2018).

²⁴ 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.

²⁵ *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/>.

²⁶ *Henrietta Lacks: science must right a historical wrong*, NATURE, Sept. 1, 2020, <https://www.nature.com/articles/d41586-020-02494-z>.

Indigenous Americans, too, have survived “significant unethical research and medical care” since colonization.²⁷ Latinx New Yorkers remember that between the 1930s and the 1970s, approximately one-third of Puerto Rican women and girls were forcibly sterilized.²⁸ This history feels strikingly present as immigrants detained in ICE facilities in Georgia last year reported forced hysterectomies.²⁹ 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 experimental and new.³⁰ Getting New Yorkers to take this vaccine will require planning, care, and sensitivity to these concerns.

Unfortunately, throughout the pandemic response, both the City and state have failed to prioritize cultural and linguistic competence and meaningful community engagement – to all of our detriments.³¹ Given the City’s high vaccine refusal rate,³² it appears to be making the same mistakes once again. These community engagement failures are public health failures. The City must work with community members and community-based organizations to engage all New Yorkers in the vaccination effort. Just as community members have been more effective at convincing their neighbors to wear masks and adhere to social distancing,³³ community members and organizations are more likely than outsiders to know how to convince their neighbors to get vaccinated.

²⁷ See Felicia Schanche Hodge, *No Meaningful Apology for American Indian Unethical Research Abuses*, 22 ETHICS & BEHAVIOR 431 (2012).

²⁸ 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>.

²⁹ 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>.

³⁰ 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/>).

³¹ 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).

³² See Henry Goldman & Keshia Clukey, *N.Y. Front-Line Workers to Lose Place in Line If Skip Shot*, BLOOMBERG, Jan. 7, 2021, <https://www.bloomberg.com/news/articles/2021-01-07/nyc-s-de-blasio-blames-state-for-thousands-of-unused-vaccines> (“More than 30% of health workers resist jabs, causing surplus.”).

³³ 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>.

But, addressing vaccine hesitance will require more than just public education. It will also require ensuring that individuals feel – and actually are – safe registering for vaccination. The City must accommodate those who, whether for fear of deportation, criminalization, losing custody of their children, or any other reason, may be afraid to share intimate information with the government. This is particularly true when it comes to intake forms, like CVS’s, that ask for a social security number, state identification number, or driver’s license number for individuals who are uninsured.³⁴ Although President Biden issued an executive order directing agencies to review the Trump administration’s public charge rule, the rule remains in effect.³⁵ And, too many immigrant seniors still fear that participation in government-linked health care assistance will render them ineligible for permanent residency.³⁶ Intake forms that request social security numbers generally and specifically for the uninsured, particularly when vaccine recipient information is shared with the federal government,³⁷ are likely to dissuade individuals who hold these fears from seeking vaccination.

Moreover, a social security, state ID, or driver’s license number request or requirement may close the door to vaccination for those who lack such identity documents. There is no reason that vaccine providers should be soliciting this information.³⁸

Similarly, other vaccination sites, like AdvantageCare, use individuals’ credit histories to determine whether they are eligible for vaccination, running individuals through Experian to verify their identities – despite the fact that one in five Americans is “credit invisible” and cannot be verified by a credit check – a problem that disproportionately impacts Black people.³⁹

³⁴ *COVID Vaccine Intake Consent Form*, CVS, <https://info.omnicare.com/rs/095-VIX-581/images/COVID%2019%20Vaccine%20Intake%20Consent%20Form.pdf> (last visited Jan. 12, 2021).

³⁵ *Public Charge Rule*, NYC MAYOR’S OFFICE OF IMMIGRANT AFFAIRS, Feb. 17, 2021, <https://www1.nyc.gov/site/immigrants/help/legal-services/public-charge.page>.

³⁶ *See generally* Public Charge and Immigrant Seniors, JUSTICE IN AGING, Sept. 17, 2020, <https://justiceinaging.org/public-charge-and-immigrant-seniors/>.

³⁷ *See* n.40, *infra*.

³⁸ While CVS asserts that it collects this information to facilitate reimbursement from the federal Health Resources & Services Administration (HRSA) for uninsured vaccine recipients, reimbursement is available regardless of immigration status, and HRSA does not require a social security number, driver’s license number, or state ID to facilitate reimbursement. *See FAQs for COVID-19 Claims Reimbursement to Health Care Providers and Facilities for Testing, Treatment and Vaccine Administration*, HRSA, <https://www.hrsa.gov/coviduninsuredclaim/frequently-asked-questions> (last visited Feb. 2, 2021); *COVID-19 Claims Reimbursement*, HRSA, <https://coviduninsuredclaim.linkhealth.com/patient-details.html> (last visited Feb. 2, 2021) (explaining how to submit reimbursement for a patient who does not provide a social security number, driver’s license number, or state ID).

³⁹ Samantha Cole, *Vaccine Sites Use Credit History to Verify Patients’ Identities*, VICE, Jan. 15, 2021, https://www.vice.com/en/article/y3gq9j/nyc-vaccine-site-credit-history-experian-identity-rejected?__twitter_impression=true.

Even as New York works to stand up one unified vaccine registration system, the City can ameliorate these barriers immediately by issuing binding rules proscribing requests for social security numbers, driver's license numbers, or state identification numbers as well as the use of credit checks to verify identity for the purposes of vaccine receipt.

A prohibition on collecting this information on the front end will also help to ensure that New York does not share troves of vaccine recipients' personal information with the federal government. At the same time, City Council should re-evaluate and strengthen, where necessary, the protections for the Citywide Immunization Registry, as well as pressure state and federal lawmakers to adopt policies that protect vaccine recipients' personal information, because no one should have to worry that information shared to respond to a public health crisis will be used to criminalize or deport them or to take their children away.⁴⁰

⁴⁰ In November, the federal government informed states that it was conditioning distribution of any COVID-19 vaccine to a state on that state's signing a data use agreement (DUA), Data Use and Sharing Agreement to Support the United States Government's COVID-19 Emergency Response Jurisdiction Immunization and Vaccine Administration Data Agreement (Nov. 9, 2020) (on file with the author), that committed to provide the federal government with a wealth of personal information about each vaccine recipient, including, but not limited to, name, address, date of birth, and identification number. See CENTERS FOR DISEASE CONTROL AND PREVENTION, COVID-19 VACCINATION PROGRAM INTERIM PLAYBOOK FOR OPERATIONS 63 – 64 (Oc. 29, 2020). The sweeping nature of this data sharing agreement was unprecedented. *E.g.* *Statistics Center*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/hiv/statistics/index.html> (last visited Dec. 2, 2020) (“Health departments report de-identified data to CDC.”). What is more, that data sharing agreement was explicit that the CDC and the federal Department of Health and Human Services (HHS) could share vaccine recipients' information with “other federal partners,” Data Use and Sharing Agreement to Support the United States Government's COVID-19 Emergency Response Jurisdiction Immunization and Vaccine Administration Data Agreement (Nov. 9, 2020) (on file with the author), which could include Immigration and Customs Enforcement (ICE), the FBI, or the Department of Homeland Security (DHS). This too was without precedent. *E.g.* *National Immunization Surveys*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/vaccines/imz-managers/nis/confidentiality.html> (last visited Dec. 2, 2020) (“It is against federal law for us to give your name or any other information that could identify you to anyone, including the President, Congress, National Security Agency, Department of Homeland Security, Internal Revenue Service, Immigration and Naturalization Service, or welfare agencies for any reason.”). Fortunately, in early December, as a result of advocacy from many organizations and several states, including New York, the CDC did roll back the most egregious parts of the DUA. The new DUA states explicitly in Appendix G that vaccine recipient information will not be used “for any civil or criminal prosecution or enforcement, including, but not limited to, immigration enforcement, against such individuals whose information is shared pursuant to this DUA.” Data Use and Sharing Agreement to Support the United States Government's COVID-19 Emergency Response Jurisdiction Immunization and Vaccine Administration Data Agreement 24 (Dec. 1, 2020) (<https://www.cdc.gov/vaccines/covid-19/reporting/downloads/vaccine-administration-data-agreement.pdf>). It is also explicit that the federal government “will not seek social security numbers, driver's license numbers, or passport numbers.” *Id.* But, the DUA itself continues to insist that only states with a state law or regulation prohibiting them from sharing identifiable information about vaccine recipients may send de-identified information to the federal government; all other states are still required to share vaccine recipients' identifiable information. *Id.* at 2. New York has no such law, which means that New York will still be required to share vaccine recipients' names, addresses, dates of birth, and other personal information with the federal government, unless or until we pass such a law. Moreover, the latest DUA continues to permit the federal government to unilaterally change its appendices with only notice to the states – that is,

Conclusion

Throughout the COVID-19 pandemic, the City has perplexingly sidelined community-based providers and organizations that are expert in delivering culturally and linguistically competent care, services, and communication to their communities. Now, as the City – like the rest of the United States – pins its hopes of emerging from the coronavirus pandemic on vaccine uptake,⁴¹ it is as important as ever that the City turn to these trusted community groups to ensure that vaccine outreach and distribution is inclusive, effective, culturally competent, and linguistically accessible. Many of the witnesses at this hearing join a cadre of organizations that have long been offering to help.⁴² New York City must finally take them up on their offer. The health and vibrancy of our communities and our City are at stake.

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

without the opportunity to agree or disagree to the changes. *Id.* at 9. This means that the protections in Appendix G could disappear at any time. *See generally* NYCLU, TESTIMONY BEFORE THE NEW YORK CITY COUNCIL COMMITTEES ON HEALTH AND HOSPITALS REGARDING OVERSIGHT – COVID-19 VACCINE DISTRIBUTION & ACCESSIBILITY IN NYC (2021).

⁴¹ *E.g.* David Paul, *Wall Street's Rosy Scenario is About to Come Crashing Down*, MEDIUM, July 21, 2020, <https://davidapaul.medium.com/wall-streets-rosy-scenario-is-about-to-come-crashin-46d96880dfca>; *cf.* *Waiting for a vaccine fairy is for children, not leaders*, SUNDAY INDEPENDENT, Oct. 18, 2020, <https://www.pressreader.com/ireland/sunday-independent-ireland/20201018/282282437780731>.

⁴² *See generally* 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).