



Testimony of

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Before the

Committee on Hospitals and Committee on Health

Oversight Hearing – COVID-19 Vaccine Distribution & Accessibility in NYC

January 12, 2021

My name is Christopher Boyle and I am the Director of Data Research and Policy at New York County Defender Services (NYCDS). We are a public defense office that represents New Yorkers in thousands of cases in Manhattan’s Criminal and Supreme Courts every year. I have been a New York City public defender for more than twenty years. Thank you to Chairs Rivera and Levine for holding this hearing on the city’s plan to distribute COVID-19 vaccinations.

COVID-19 in City Jails

New York City’s jails are a coronavirus hotspot. At least three incarcerated people have died following documented COVID-19 infections.¹ At least 13 DOC and CHS staff have died from COVID-related illness; the correctional officers’ union has asserted that another of their members who died from COVID-19 was not included in that tally.² As of January 10, 2021, 748 incarcerated

¹ New York City Board of Correction Weekly COVID-19 Update, Week of December 26, 2020 – January 1, 2021, available at <https://www1.nyc.gov/assets/boc/downloads/pdf/covid-19/BOC-Weekly-Report-12-26-20-01-01-21.pdf> (this is the most recent BOC Weekly COVID Update currently available) (hereinafter “BOC Weekly COVID Update, December 26–January 1”).

² Jan Ransom, “Virus Raged at City Jails, Leaving 1,259 Guards Infected and 6 Dead,” THE NEW YORK TIMES, May 20, 2020 (updated June 16, 2020), available at <https://www.nytimes.com/2020/05/20/nyregion/rikers-coronavirus-nyc.html>.

people have tested positive for COVID-19 while in custody;³ 133 of those positives tests among incarcerated people have occurred since December 1, 2020. Twenty-seven incarcerated people have been hospitalized for COVID-related illness while they were held in NYC jails, including one incarcerated person who was hospitalized recently.⁴ It is no surprise that the *Wall Street Journal* called Rikers Island “among the most-infected workplaces in the U.S.”⁵

Despite the known dangers of increased density and a lack of social distancing in congregate settings, our city jail population has increased swiftly and significantly over the past several months. As of January 1, 2021, the jail population has risen from a daily low of 3,832 on April 29 all the way to 4,967.⁶ As a result, approximately 70% of the jail population—more than 3,300 people—are housed in units that are more than half-full.⁷ The Department of Correction has long used the number of units filled to more than half of their capacity as a measure of whether the population density in NYC jails is safe.⁸ More than 20% of all available housing units are filled between 76% and 100% of their designed capacity.⁹

The City needs to urgently release a vaccination plan for the nearly 5,000 people incarcerated in city jails. Such a plan must be implemented swiftly and efficiently, but so far, defenders are in the dark.

The City’s Vaccination Plan for Incarcerated People

On January 3, 2021 *The City* published an article stating that Correctional Health Services, the city agency that cares for incarcerated people in city jails, has been authorized to begin the process of classifying incarcerated people in categories for vaccine distribution.¹⁰

As a public defender office, we are eager to see our incarcerated clients vaccinated to protect them from the spread of COVID-19 in city jails. But we were deeply dismayed to have to learn this information from a news publication. This announcement should have been made directly to

³ Correctional Health Services COVID-19 Snapshot, data as of January 10, 2021, *available at* <https://hhinternet.blob.core.windows.net/uploads/2021/01/CHS-COVID-19-data-snapshot-20210111.pdf> (this is the most recent CHS COVID-19 Data Snapshot currently available; a new Snapshot is currently being published on CHS’s website every business day, *see* <https://www.nychealthandhospitals.org/correctionalhealthservices/>).

⁴ Correctional Health Services Local Law 59 Report, Report for Week of December 14, 2020 – December 20, 2020, *available at* <https://hhinternet.blob.core.windows.net/uploads/2021/01/report-for-the-week-of-december-14-2020-to-december-20-2020.pdf> (this is the most recent CHS Local Law 59 report currently available).

⁵ Deanna Paul & Ben Chapman, “Rikers Island Jail Guards Are Dying in One of the Worst Coronavirus Outbreaks,” *Wall St Journal*, April 22, 2020, *available at* <https://www.wsj.com/articles/rikers-island-jail-guards-are-dying-in-one-of-the-worst-coronavirus-outbreaks-11587547801>.

⁶ BOC Weekly COVID Update, December 26–January 1 (note 6, *supra*).

⁷ *Id.*

⁸ *See* Archived copy of DOC COVID-19 Action Plan, Social Distancing Guidelines for Staff and People in Custody, captured October 20, 2020, *available at* <https://web.archive.org/web/20201020183222/https://www1.nyc.gov/site/doc/media/socialdistancing.page> (last accessed November 29, 2020); DOC COVID-19 Action Plan, Social Distancing Guidelines for Staff and People in Custody, *available at* <https://www1.nyc.gov/site/doc/media/socialdistancing.page> (last accessed November 29, 2020).

⁹ *Id.*

¹⁰ Reuven Blau, “COVID-19 Vaccines Headed to Rikers Island and Other City Jails,” *The City*, Jan. 3, 2021, *available at* [COVID-19 Vaccines Headed to Rikers Island and Other New York City Jails - THE CITY](https://www1.nyc.gov/site/doc/media/socialdistancing.page).

defenders and other agencies that serve incarcerated people in a way that invited us to collaborate and support the city's vaccination efforts. Sadly, as in every other way that the city has approached COVID-19 in city jails, the city's actions once again fall short.

The city's announcement raises many questions that the Committee on Health and the Committee on Hospitals should also be looking for answers for from city officials. Last week, I sent a letter to DOC Commissioner Cynthia Brann, CHS Senior Vice President Dr. Patsy Yang, BOC Chair Jennifer Jones Austin and MOCJ Acting General Counsel Deanna Logan asking for specifics on the city's vaccination plan. I posed the following questions:

- 1- How many doses of the vaccine will CHS have available for its first distribution?
- 2- Will this allotment be replenished to account for the high degree of turnover within the city jail population?
- 3- Which vaccine will be made available?
- 4- Will persons who are vaccinated be housed with those that aren't vaccinated and will there be some segregation between the first and second shots?
- 5- Who will be designated "high risk" to get the vaccine? The defender organizations have received dozens of letters from CHS explaining that there are many clients labeled "high risk" Will every inmate who received a letter get access to the vaccine?
- 6- If the highest risk inmates exceed the number of shots available how will the shots be rationed?
- 7- If an incarcerated person gets the first dose while within jail custody and then is subsequently released how will they receive their second dose?
- 8- What type of outreach has DOC done or considered to alleviate the obvious fears this particular vulnerable population may have as to even taking the vaccine? Has CHS conducted any education efforts among the first inmates who may receive a vaccination?

This last point is perhaps the most serious. There is every indication that many incarcerated people may be fearful of accepting the vaccine. As you know, Rikers Island is a dangerous place for our clients and DOC has failed to engender trust between incarcerated people and corrections officers. Without any real efforts to alleviate those fears by CHS or other city agencies, we may see far lower numbers of vaccinations in our jails than are necessary to end the outbreak and protect incarcerated people, staff and the surrounding communities.

We still have not heard directly from city officials further details of their plan, though we were informed yesterday that a plan would be released at today's Board of Correction hearing. We urge City Council to call on MOCJ, DOC and CHS to work with public defenders as partners so that we can accomplish our shared goal of stopping the spread of COVID-19 as quickly as

possible. We can help to facilitate the flow of information so that our clients and their families can have their questions answered and any fears assuaged about the vaccination process.

If you have any questions about my testimony, please email me at cboyle@nycds.org.