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

***NYC Defenders and Advocates: Governor Cuomo's Prison
Vaccination Announcement Offers Little Change for Incarcerated
New Yorkers Statewide***

***To Date: 5,163 New Yorkers in DOCCS' Custody have Tested Positive
for COVID-19, 31 have Succumbed to the Virus***

(NEW YORK, NY) – Neighborhood Defender Service of Harlem, The Bronx Defenders, The Legal Aid Society, the New York Civil Liberties Union, and Brooklyn Defender Services, in response to reporting that Governor Andrew Cuomo and the New York State Department of Corrections and Community Supervision (DOCCS) announced their intentions to begin offering the COVID-19 vaccine to a fraction of at-risk New Yorkers in DOCCS' custody, issued the following joint statement:

“Today’s announcement that New York will begin moving toward offering the vaccine to elderly people in prison -- who have been eligible for the vaccine now for weeks -- has little to do with the patently illegal and immoral practice challenged in court today. COVID-19 is a danger for incarcerated people of all ages because of the unique risks that the carceral setting creates. That danger is borne overwhelmingly by people of color. Every single person incarcerated in New York state needs access to the vaccine. Public health experts advise the Governor to make it available to all incarcerated people immediately, and the law mandates it.”

Background

Earlier today, a coalition of public defenders and civil liberties advocates filed an Article 78 class action on behalf of all individuals held in New York City jails. The action alleges that Governor Andrew Cuomo and the Department of Health’s refusal to include all incarcerated people in the pool of individuals eligible for COVID-19 vaccinations – while providing vaccinations to others

living in congregate settings and to Department of Correction (DOC) employees – ignores science and public health mandates and arbitrarily excludes incarcerated New Yorkers in violation of the Equal Protection clause of the 14th Amendment to the United States Constitution. Petitioners are asking the court to compel Governor Cuomo and the Department of Health to immediately offer vaccinations to all incarcerated people.

On January 11, Governor Cuomo initiated vaccination Phase 1b, which made groups living in congregate settings, such as homeless shelters, as well as DOC staff, eligible for vaccination. But incarcerated people, who are forced to live in the quintessentially congregate settings of jails and prisons, are generally ineligible for vaccination despite the extraordinary COVID risks posed by those crowded environments.

Incarcerated New Yorkers face high risk of COVID-19 infection. The petition cites public health guidance from the Centers for Disease Control and Prevention, the National Academies of Science, Engineering and Medicine, and affidavits from medical professionals, all urging swift vaccination eligibility for incarcerated people in the interest of public health. The experts explicitly advise states to make vaccines available to jail and prison staff and incarcerated people at the same time.

The numbers bear out the risk to incarcerated people and the wisdom of the experts' guidance. The New York City jail population is at its highest level since late March 2020, making social distance impossible to maintain. The state Department of Correction and Community Supervision just registered its 5,000th positive COVID-19 test result of people in its custody. 30 New Yorkers have died in prisons since the pandemic began. Put plainly, the lives of incarcerated New Yorkers – and public health at large – depend on offering vaccinations to everyone incarcerated in jails and prisons.

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