

December 21, 2020

The Honorable Ralph Northam
Governor of Virginia
P.O. Box 1475
Richmond, VA 23218

RE: Ensuring Accurate Information, Access, Safeguards, and Fair Processes: Marginalized Groups and Virginia's COVID-19 Vaccine Distribution Plans

Dear Governor Northam,

On behalf of the Legal Aid Justice Center (LAJC), I write to urge your administration to ensure Virginia's COVID-19 vaccine distribution plan explicitly includes and accounts for vaccine protocols that protect marginalized and vulnerable Virginia individuals and communities. The Legal Aid Justice Center serves such clients and client communities across the Commonwealth, and we are deeply aware of the barriers to vaccine access likely to be faced by groups like farmworkers, incarcerated individuals, and low-income Virginians. We are also keenly sensitive to the fact that healthcare access, especially for these communities, is not just about the ability to receive a treatment, but also the critical need to receive transparent, thoughtful, comprehensive care that seeks to strengthen and improve the relationships between systems and the communities they serve. We urge your team to proactively prioritize and plan for vaccine distribution access, in the fullest sense of the term, to these people and communities.

Farm and Migrant Workers

As COVID-19 began to ravage the United States earlier this year, many Virginians were fortunate to be able to shelter themselves indoors for safety and isolation. The Commonwealth's agricultural industry, however—which relies on this historically marginalized and vulnerable migrant workforce—continued to bring in thousands of workers from abroad to ensure that Virginians and the rest of the world had food on their plates during a dangerous and challenging time.

At the same time, while the Commonwealth did begin to create emergency workplace safety standards that include farm and migrant workers, these standards are difficult to enforce, should be strengthened for farm and migrant workers' particular circumstances, and are set to expire in mid-January 2021. In large part, through much of the pandemic, farm and migrant workers continued to live, cook, and bathe in common facilities on labor camps that did not conform to health recommendations. They were transported to and from work daily in tightly packed buses or vans and worked side by side in the fields. Workers were not systematically tested for COVID-19 prior to entry (some employers, in fact, actively resisted testing), and lived on isolated, rural farms in packed housing, without access to reliable information about the volatile disease. **Many workers told our team they did not want to be tested for COVID-19; they were afraid if they tested positive, they would not be paid for work during their quarantine, and feared retaliation or eviction.**

As predicted, there have been multiple outbreaks at farms across the Commonwealth, and single cases have cropped up at many others. Farmworker communities often exist outside of the mainstream spotlight, but our COVID-19 response to them cannot. We implore the Commonwealth to adequately prepare for farm and migrant worker vaccine distribution. Workers will start to arrive in March, with rapidly increasing numbers into the late spring and through the summer. To protect these essential workers, we ask for:

- Advanced access to culturally sensitive informational materials in all relevant languages
- Provision of vaccine distribution sites that are free from employer interference and influence
- Early interagency coordination with local health districts, federal agencies, and international authorities
- Key timing considerations to ensure multiple doses are easily attainable; and
- Assurances that all farm and migrant workers in Virginia receive access to the vaccine

Incarcerated and Detained Individuals

Incarcerated people are especially vulnerable to COVID-19, not only because they are held in crowded congregate settings, but also because they are more likely than the general population to have underlying conditions that increase the risk of complications from the disease. They also face additional barriers to accessing and receiving appropriate, timely medical care. As of December 20, 2020, at least 6,504 imprisoned people have tested positive for COVID-19 in Virginia Department of Corrections (VDOC) facilities with 1,349 currently active cases; 38 of these people have died.¹ Due to a lack of uniform reporting, it is unclear exactly what the COVID-19 infection rate looks like in local and regional jails, but based on information released by some jails, as well as local news reports,² we know there are numerous outbreaks in those facilities statewide. Thousands of other individuals in Virginia (including immigrants in detention, detained youth, and individuals under involuntary commitment) also face the risks inherent in congregate settings—especially during a pandemic—though policy concerns around congregate care often focus solely on elderly and adult long-term care centers.

Incarcerated and detained people in Virginia must have meaningful access to vaccines and COVID-19 healthcare—in addition to planning logistics of dose acquisition and administration, it is essential that distribution plans include meaningful patient education and the opportunity for patients to consult with a doctor prior to vaccine administration. Five states—Connecticut, Delaware, Maryland, Nebraska and New Mexico—have already included incarcerated people in phase one of their COVID-19 vaccine distribution plans. Others are still deliberating, but Virginia should not have to think twice about joining those five.

We are aware that VDOC is surveying prisoners on whether they are willing to be vaccinated, we assume to estimate the number of doses likely needed. Given skyrocketing case numbers, if it is not happening already, similar basic planning steps must immediately be taken by local and regional jails, immigrant detention centers, and youth detention facilities. We have learned the VDOC survey gave prisoners a deadline of December 20, 2020, to state whether they intended to be vaccinated. Though VDOC may only intend to use this information for dose estimate purposes, many incarcerated individuals are afraid of what their responses may mean in terms of future, medically informed access to the vaccine or how they will be treated by facility staff. Failures in education and communication like these will decrease overall adoption of the vaccine and delay herd immunity.

Additionally, the Virginia Department of Health (VDH) needs to proactively engage with Farmville, Caroline, and ICE so every person in Virginia's immigrant detention facilities has proper access to culturally sensitive COVID-19 vaccine information and care—given in their language—and can make informed decisions about vaccination. Virginia's Farmville detention center, managed by Immigration Centers of America, endured a massive outbreak this summer, which culminated in one death and hundreds of positive cases among immigrants and staff—what was then the largest COVID-19 outbreak in any immigrant detention facility in the

¹ <https://vadoc.virginia.gov/news-press-releases/2020/covid-19-updates/>

² Middle River Regional Jail has reported that 401 inmates of their 816-person population have tested positive since November 25, 2020. [Verona jail, Augusta County prisons all dealing with COVID outbreaks \(newsleader.com\)](https://www.newsleader.com/story/news/2020/11/25/verona-jail-augusta-county-prisons-all-dealing-with-covid-outbreaks/7000000001/)

nation. Caroline Detention Facility, administered by the Caroline County government, has gone through multiple COVID-19 outbreaks even as they continue to accept people detained by ICE, and as of December 16, 2020, has 23 positive cases—about 10 percent of its total detainee population. VDH is responsible for ensuring oversight over vaccine protocols at Farmville and Caroline, even if those detained are in federal proceedings. Moreover, as of March 1st, 2021, the Commonwealth will be responsible by statute for the health and wellbeing of those detained at immigrant detention centers in Virginia.

Immigrant Workers and Families

LAJC has a long history of partnering with the large immigrant communities residing in Virginia, including on healthcare outreach efforts. Since the initial COVID-19 outbreak, we have been working with these communities providing emergency relief, as well as supporting virus prevention and education measures and helping to publicize free and low-cost testing sites. Our experience with this work has made clear the urgent need to fund and develop community education campaigns targeted to immigrant communities that clearly detail the vaccination process, safety of the vaccine, and importance of getting vaccinated. Planning and publicizing public events alone is not sufficient and will need to be accompanied by a strong, comprehensive community education and outreach campaign to ensure community participation in the vaccination process.

LAJC also strongly encourages your administration and state public health officials to limit unnecessary data collection of private information in its COVID-19 response, as this could have a chilling effect on some immigrant populations participating in the vaccination process. Immigrants in Virginia who lack lawful status are often fearful of providing private information to state officials over concerns that they could be shared for non-public health purposes such as immigration enforcement. **As such, we urge state officials to make clear as part of any public health vaccination campaign that any information will be kept private and not shared outside the public health context.**

We also urge state public officials to prioritize low-income immigrant communities for early vaccination, as this population often works in essential jobs including the food sector, childcare, and the provision of cleaning services in buildings, much of which has continued to operate in-person during the pandemic. Many of these same front-line workers also have multi-family and/or multi-generational living situations that make social distancing difficult; vaccinating this population earlier would help to stem the spread of the virus including to elderly and other vulnerable groups.

Public School Employees

The spring's extended school closure and the virtual reopening of most of Virginia's school divisions has devastated children and families across the Commonwealth—economically, socially, and educationally. Despite heroic efforts from educators to quickly adapt to a new distance learning model, our students are suffering from mental health challenges, learning loss, and food instability. Reopening schools safely must be a top priority for the health and well-being of Virginia's children, but in-person schooling depends on rapid and comprehensive distribution of the COVID-19 vaccine to educators and public school employees. Our students cannot safely return to face-to-face instruction without prioritizing vaccinations for educators.

Low-Wage, Low-Income Virginians

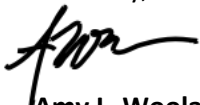
Even beyond discrete populations such as those in carceral facilities, farmworker camps, or immigrant communities: wage- and income-insecure Virginians in general have experienced increased health and financial precarity as a result of the pandemic. While many have lost their jobs altogether, others have been forced to

work despite their well-founded fears of contracting COVID-19. Our clients who work as home health aides, custodians, and cooks, among other professions, have not had the luxury of working from home or taking leave to mitigate their exposure to the virus. Their families depend on income from these jobs to pay for rent, food, hospital bills, and other necessities. Many of these clients live in multi-generational housing or otherwise congregate living spaces. Consequently, they continue to face heightened risk of both contracting and spreading COVID-19. Many have expressed confusion about their eligibility for the vaccine, fear of associated financial costs of receiving it, and skepticism about its efficacy and safety.

Virginia must create clear and comprehensive guidance materials about the vaccine, addressing issues including but not limited to: how to access the vaccine, data and information on safety and efficacy, and information on patients' right to receive or refuse the treatment. We ask you to prioritize distribution of this information in public housing complexes, homeless shelters, community services board offices, community centers, and low-income neighborhoods. **The best way to do this is to build trust with communities by employing community members themselves to assist with outreach and education.**

As Virginia plans for vaccine distribution and administration, we must avoid the mistakes of the past and meaningfully address the systemic disparities and dysfunction still widely experienced by Black, brown, and economically disadvantaged Virginians seeking healthcare. We must acknowledge the ways COVID-19 has both ravaged the health and security of these communities and exacerbated distrust of medical professionals and establishments. And we must proactively plan for these communities to receive meaningful vaccine access, care, and information. At LAJC, we are committed to ensuring our clients and client communities are not overlooked by the Commonwealth and can make informed choices about their care. But to do so, your administration must ensure access to vaccine and COVID-19 care that proactively includes, appropriately prioritizes, and seeks to build trust with the people and communities we serve. We are available to meet and discuss the issues we have raised in this letter with your office and any other relevant officials, and we will continue to advocate on behalf of our clients and client communities on this matter as the process unfolds.

Sincerely,



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