



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

Jumaane D. Williams

May 1, 2020

Andrew M. Cuomo
Governor of New York State
State Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

I write to you today regarding the great potential and underlying danger of contact tracing efforts being used to mitigate the spread of COVID-19. Contact tracing could be an effective mechanism to end complete social distancing, although it also presents dangers and potential threats to civil liberties and the protection of the most vulnerable New Yorkers. As the State of New York continues to develop thoughtful and innovative ways to prevent mass transmission of the COVID-19 virus, we must be mindful of both the intent and impact of these efforts. We cannot sacrifice protections and civil liberties in the name of speed.

The safety and privacy of the data collected must be a central tenet in New York State's development of a contract with Bloomberg Foundation for contact tracing. The Bloomberg Foundation and subsidiaries can not have ownership or use rights for data within the system. In the contracting process with the foundation, as well as the program creation process, thoughtful and intentional actions will promote the safe and effective use of contact tracing. The safety and privacy of the data collected must be a central tenet in New York's effort to create programming for contact tracing. Impulsive decisions without a plan to store, use, and ultimately destroy this data can result in misuse, violations of privacy, and false positives.

Contact tracing efforts must mitigate the spread of the virus, and must never center around the collection of data to be used by private entities to further their own interests or profits. Upon receiving the data, no government entity or private institution should be allowed access to the data for any use case other than for contact tracing explicitly.

To assure the creation of a successful, comprehensive, and non-invasive contact tracing program, I ask the following of your office:

1. When and in what forms will technology be incorporated into the process? Will manual contact tracing ever be supplemented with other forms of data?

2. How will the State ensure that no third party agency has any ownership of data resulting from contact tracing?
3. In order to effectively avoid loopholes by which data could be used in contradiction with the civil liberties of New Yorkers, the program must set clear and detailed intentions regarding the content that will be collected, and must establish ridged guidelines to the following questions:
 - a. Who has access to the data?
 - b. What logging and monitoring systems will be in place to audit access and use data?
 - c. What is the medical evidence informed practice regarding the lifespan which would guide how long contact tracing data would be in use?

To this end, my office requests:

- 1) Any contact tracing system and its technology and data must be housed within the Department of Health. Under this department, the data collected through the program should be protected from by codes and ethics which regulate this agency.
- 2) A culturally and linguistically competent workforce is necessary due to the high rates of spread of the virus in ethnically and linguistically diverse populations. While medical professionals are essential in the creation of the contract tracing program, it is essential we do so with language and cultural competency. These community ties can be fostered by contracting with community based organizations where existing relationships can enrich the contact tracing process. These ties should prompt honest and transparent sharing of information.
- 3) As a defacto ombudsman for the city of New York, I request to be involved in all stages of this program, including oversight, and implementation.

To maintain public trust, transparency is key. The contact tracing program must include clear objectives, oversight, and community involvement at all levels. We must engage stakeholders in a variety of sectors, such as community based organizations, the private sector, and both state and city governments. This campaign has great potential to save lives, and if implemented correctly, significant implications for setting precedent around privacy protections.

I hope to promptly receive this information. Please contact First Deputy Public Advocate for Policy, Nick E. Smith, at nsmith@advocate.nyc.gov for questions or further discussion. Thank you.

Sincerely,

Jumaane D. Williams
Public Advocate for the City of New York

cc:

Dr. Howard A. Zucker, Commissioner, New York Department of Health
Paul Francis, Deputy Secretary, Health and Human Services