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December 13, 2021

The Hon. Daniel McKee
Governor
State House, Room 115
Providence, RI 02903

VIA EMAIL AND MAIL

Dear Governor McKee:

Throughout the COVID-19 pandemic, the ACLU of Rhode Island has closely followed and provided perspective on some of the tactics and strategies considered and implemented to address the crisis in light of their potential civil liberties impact. In that same respect, we wanted to respond to your recent announcement that Rhode Island is in the process of developing a “proof-of-vaccination passport system,” and offer comments on the principles we believe should be incorporated in order to protect civil liberties in any such system.

The ACLU recognizes that advances in technology can be invaluable for public health and to ensure that the pandemic is as contained as possible. However, it is of tantamount importance that its use be appropriately balanced with provisions which ensure privacy, autonomy, and accessibility to all residents of this state. It is with this perspective that we offer the following three important suggestions for any application which the state and the Department of Health develop for this purpose. In making these recommendations, we recognize that Department officials may already be taking them into account.

- **Use of any digital application should be alongside – not instead of – the current system which allows for non-digital proof-of-vaccination status.** You have already indicated that this system will be voluntary in nature. However, by the same token, it is important that any private business or entity not be allowed to make exclusive use of this digital system, and thus end up discriminating against individuals who do not have smartphones. The rollout of a digital passport system should make clear that any entity using the new system to document vaccination status should also allow for the continued use of a paper-based system to verify vaccination status.
- **The digital information available through the system should be strictly limited to the specific information needed – the person’s identity and immunity status.** No additional health or other personal information is necessary, and therefore should not be included or available for disclosure to entities relying on the passport. Residents should not be forced to waive basic privacy rights in order to make use of this passport system.

- **Any digital application should contain a clear policy barring the retention of any data collected through use of the system.** In order to ensure that private companies and governmental agencies are not utilizing the application to track information about the whereabouts of individuals, it should be made clear that the passport cannot be used for tracking purposes. This limitation is particularly important so that vulnerable communities, such as undocumented individuals, can use the passport as they choose without fear of punitive results, and also to prevent private entities from turning a health application like this into a commercial tool.

We recognize that the balance between public health and privacy and autonomy can be delicate, but the opportunity to create an application which centers the basic principles summarized above is not only attainable but critical.

Thank you in advance for your attention to this, and we hope that you will take this commentary into consideration as your administration moves forward with this project. If you have any questions about our views, I hope you will feel free to let me know.

Sincerely,

A handwritten signature in black ink that reads "Steven Brown". The signature is fluid and cursive, with the first name "Steven" and last name "Brown" clearly distinguishable.

Steven Brown
Executive Director

cc: Dr. Nicole Alexander-Scott
Tom McCarthy, RI DOH