

To: The County Council of Montgomery County

I am writing to express my deepest opposition to, and to put in the historical record my sincere contempt for, this proposal by the County Executive to institute medical apartheid in Montgomery County, Maryland.

As many have already testified and written, there are myriad scientific, quantitative, pragmatic, and moral reasons to reject out of hand this illiberal, misguided, ill-conceived, disingenuous, opportunistic, disrespectful, intolerant, and malevolent proposal that for months has been longed-for by the County Executive, independently of any specific epidemic context or data, and for reasons ultimately known mostly to him and perhaps his psychiatrist. It would be almost redundant by now, after the disastrous school closings and endless mask mandates of the past two years, to note the irony of a county and government that allegedly prides itself on rhetorical belief in “inclusion” and “tolerance” flirting with such segregation.

But on a more fundamental level, for some local County Council composed of people such as yourselves – few and perhaps none of whom, from your backgrounds, observable public statements, private communications, or actions, have anything other than the flimsiest and shallowest possible degree of epidemiology knowledge, understanding, or even interest – to arrogate to itself a power to impose “vaccine passports” on nearly a million citizens, including children down to age five (an extremely-low-risk category, for whom the vaccine is only approved on emergency basis), would be a shocking and reprehensible betrayal of public trust, lying well outside any legitimate exercise of authority on your part. To do this would be a self-discrediting, delegitimizing act on the part of this county government.

Such an edict is not in your job description. Please bear in mind as you deliberate that you were elected to sit as members of a county council, in elections that under normal circumstances few even care about or pay attention to (though this can change, depending on how you vote on this matter), in an American county. Please also bear in mind what you are actually considering and voting on, from the comforts of your homes: to *exclude* your neighbors, and the children of your neighbors (for at least one of you I understand this to be true rather literally) from public life. This is not some theoretical exercise, game, or clever technocratic paper-policy that is fun to debate or take positions on for political triangulation or optics. These are real people, with real lives, with real families, that you would be doing this to.

Dubious legal justification

Presumably the primary authority under which this action would be taken by this Council “acting as the Board of Health” is *Md. Health-General Code Ann. 3-202(d)*. This ambiguous bullet in the state health code, which this Council at times appears to construe so as to empower them to do and mandate practically anything whatsoever now, stipulates that

...each county board of health may adopt and enforce rules and regulations on any nuisance or cause of disease in the county.

Maryland local government code Ann. 10-328(b) says, possibly even more vaguely,

A county may provide for the prevention of contagious diseases in the county.

But a “vaccine passport” or requirement as described by the proposal, and in the current context, is not a “regulation on [a] cause of disease” in any meaningful sense. It does not and can not be expected to “provide for the prevention of” this disease in any measurable way. Neither any of you nor, quite obviously, the County Executive is in position to declare, or in possession of good-faith reasons or rational basis to believe, that it does. We can see this empirically: there is literally *no place in the world* that has instantiated and enforced “vaccine passports” and then seen a statistically-significant decline in community transmission – the only defensible endpoint that such a measure could even be meant, in principle, to achieve – be the consequence. The winter wave has led to all-time-high case spikes in all the major cities that have instituted vaccine passports. Vaccine passports, simply, have not done anything about (let alone did they “prevent”) disease anywhere. I can only encourage and hope that you find time to familiarize yourself with the actual data and outcomes of this policy when implemented elsewhere, ideally prior to implementing it here.

Logically, it is an open-and-shut case: It *does not work*, and all of you *know* – or, at least, have no valid excuse for not knowing – it does not work. Will you now do the same thing that did not work elsewhere and expect different results?

Vacuous science

Moreover, there’s no indication in any public defense of or pitch for this policy that anyone proposing it even sincerely believes that it *will* work at such a goal. Neither (obviously) the County Executive, nor the county employee he

puts forth as a public-health expert to present and defend his proposal (the Assistant Chief Administrative Officer), was able or even attempted to point to or cite any serious scientific grounding – no tangible study, white-paper, preprint, raw data-set; no actual citation in PubMed, medXriv, SSRN, or anywhere else identifiable – no hard numbers, charts, figures, analysis, or epidemiological calculations – no projections, spreadsheets, cartoons, or even crayon drawings – in support of their purported belief that vaccine passports will reduce transmission. As far as I can tell they do not even attempt to on any level other than verbal assertion. It is a complete and total joke, an embarrassment, a fraud, a parody of science, that this idea has even gotten to this point. This is not a case of “following science”. There *is no science* behind it. They don’t appear to think they need any in order to convince you to wave this through. Are they correct?

The 1/18/22 testimony of the Assistant Chief Administrative Officer should be rejected and dismissed, as it was composed largely of outdated and innumerate arguments, if not outright sophistry. He alluded to data from “November” as if in support of an assertion that “the current data suggests” the vaccine helps provide relative efficacy against infection from omicron. Omicron, as you recall, first emerged in a serious way, in South Africa, around Thanksgiving. This is a discrepancy he subtly acknowledged but only in passing, going on to assert, without reference, that “the data being tracked in other places across the country” “suggests” that vaccine relative efficacy against infection is “three and a half fold” for omicron. This alleged three-and-a-half-fold relative efficacy is very difficult to square with a reality of historically-high case rates over the winter, and with relative case-rate data (almost, if anything, indicating the converse) coming out of Europe, but we need not even respond to vacuous claims, as no elaboration, contextualization, or substantiation of them was offered by the Assistant Chief Administrative Officer, nor requested or examined by the Council.

In any event, net community transmission is a function of more variables than mere relative effectiveness against infection. You may (or may not) have noticed the gigantic waves throughout the winter, even in very-highly-vaccinated places. It doesn’t do to just blithely assert using a bootstrapped chain of *a priori* reasoning that a vaccine passport in certain public places ‘might’, or ‘should’, help against omicron community transmission in the face of these realities, let alone to impose such a policy on that basis. It is especially specious and frankly unbalanced to act as if any and every government-imposed measure and tyrannical mandate is de facto justified as long as it ‘might’, theoretically, in the mind of someone with a certain job-title, reduce transmission by some nonzero (however tiny) amount. This approach to setting policy amounts to putting theory before reality, it ignores all cost-benefit tradeoffs, and indeed any and all constraints on government. The Council should step back from this approach and instead insist that the county’s overzealous public health staff refrain from adopting such a presumptuous attitude in their advice as being inappropriate to our government system.

Last week’s meeting, and the ‘secondary’ objective

But perhaps one will object that it all depends on the what the objective of the measure is. So, what is the objective? Many of the public statements, testimonies, and Council discussion of last week (1/18/22) have indicated the goal is not primarily to reduce transmission, or to achieve any other tangible epidemiological or health outcome at all, but simply to increase the number of people who get vaccinated *as such*, for its own sake. It is worth going through some of last week’s discussion to illustrate this.

The Assistant Chief Administrative Officer stated explicitly that a key goal was to compel more vaccination (and “boosters”), specifically mentioning children.

That’s **why we chose to include the 5 to 11 year olds**, is because that is an area where we **need to see increased uptake of the vaccine**. ... obviously that is a choice that was made **to try and encourage vaccination in that population** (Stoddard, 1/18/22 Council Session; emphasis mine.)

The Acting Public Health Officer said

...there’s about 14.5% of the county that still needs to be vaccinated.
(Bridgers, 1/18/22 Council Session),

implying the goal to be 100% and that nothing less will suffice.

Councilmember Jawando voiced similar aspirations, actually quoting for some reason, in a Maryland county’s council meeting, seemingly approvingly, some especially vicious and intolerant words of the President of France:

President Macron in France actually said his goal with their...vaccine passport...is to, quote – not my words, his – ‘**p*** off the unvaccinated**’, so that they get vaccinated. And so, **I think that is another big push here**.
(Jawando, 1/18/22 Council Session; emphasis mine)

In light of this comment it is worth reiterating (perhaps Mr. Jawando momentarily forgot) that this proposal *applies to children*, down to the age of five years old. I believe a significant fraction, perhaps more than half, of Montgomery County children in this age group are unvaccinated. Are these five-year-olds among those whom it would be the Council's intent and objective to "p*** off" and "push" via this extortive public health measure? It would appear so.

Almost refreshingly, Councilmember Friedson did allude to an actual Lancet study to discuss with the public health team, but its focus and the subsequent discussion was entirely about the effect of vaccine passports *on vaccine uptake* as such, not on community transmission or any other legible public-health endpoint.

It is clear that some in the county government have taken it upon themselves to decide that it's their role to do whatever they deem necessary to maximize the vaccination rate. It does not appear to have occurred to some on the Council, or certainly to the appointed county employees with 'public health officer'-adjacent job titles pushing this policy, that there are parents who may not wish their five year old to take this emergency-authorized non-sterilizing vaccine against a virus that poses very little risk to that age group. That this preference might be the result of a completely defensible and highly informed risk-benefit tradeoff decision. That this is something that is out of their purview, and which they should respect. Instead, there is clearly an artificial, and self-assigned, 100%-vaccination goal implicitly at work in many of these deliberations, and given the sort of breathtakingly arrogant coercion tactics being gleefully bandied about over computer conferences to achieve it, it amounts to a wholly improper and out-of-line objective for the county government if the consequent actions so justified are all meant to be plausibly justified under *Md. Health-General Code Ann. 3-202(d)*. When and by what means did it become the Council's role or within its just powers to dictate to literally everyone in this county, by any means, which injections to take, to violate the liberties of those who don't, and to not stop until everyone does?

Already highly vaccinated

But on a more basic level, one must ask here: what's the point? Vaccines are a means to an end, not an end in themselves. Montgomery County is already one of the most, if not the most, vaccinated large counties in the entire country. Per CDC statistics it recently crossed the 85%-vaccinated threshold, but that represents all ages. Adults in this county, the category for whom the virus presents orders of magnitude larger risk, are vaccinated at a rate so high (high 90s) that CDC, fearing denominator issues, doesn't even try to report the actual percentage. What kind of mindlessly one-dimensional, metric-chasing myopic middle-management mentality would insist that from here it somehow "needs" to be pushed higher still? Council members (and others): this isn't a competition; vaccinated-percentage isn't your scoreboard; you don't get a trophy for "winning", or a salary-incentive bonus for each point you put on the board. There is simply no phase-transition or sudden, exponential improvement from here in any *actual outcomes we should care about* to be anticipated from pulling out all the stops to crank up this number further from 85% to, say, 88%, or 90%, or whatever.

And if it is "herd immunity" that is the goal, understand that "herd immunity", in one county, via this vaccine, which is non-sterilizing, has a rapidly-fading efficacy, and was calibrated to a prior strain of the virus that is not now dominant anyway, is a complete non-starter at any percentage. (Gibraltar, an island, was effectively 100% vaccinated and still sees epidemic waves.) So again: what's the point?

Any meaningful *community benefit* that can have reasonably been expected from the vaccination campaign has *already been achieved* by this county. If increasing this metric *for community benefit*, for the actual outcomes, was your goal, then congratulations are in order, you can just take the win, Council and public health team: "you" did it! (Anyone for whom the goal is something other than this should re-examine his motives, and ask himself why.)

Non-sterilizing and its implications

But the fact remains this is not a sterilizing vaccine. It does not confer immunity; it does not prevent one from contracting the virus; it does not prevent one so infected from transmitting the virus to others. These things are especially true regarding the currently dominant strain. And it does not suffice to wave away these facts by treating them only as statements that its effectiveness is 'less than 100% but still something' (and 'every little bit counts'). No: its effectiveness at doing these things, particularly on a marginal basis in a county that is already 85% vaccinated, is *not epidemiologically significant*. This is self-evident from all visible epidemic-wave dynamics everywhere in the world, and is not even in serious dispute. The CDC Director has said as much.

"...what they can't do anymore is prevent transmission.
(Walensky, 1/10/22)

Consequently, ensuring that all people rather than, say, “only” 85% of people in some space are vaccinated adds no meaningful degree of safety or protection from viral transmission to anyone; it guarantees nothing statistically measurable one way or the other regarding who is and is not contagious at that time and in that context, and therefore, whether and how much transmission occurs there.

This vaccine simply does *not* perform the *one* necessary, predicate function that a rational, clear-headed person would demand of a vaccine before even considering the unprecedented and drastic step, particularly in America, of mandating it for entry into public places in the name of reducing transmission. We are all very fortunate and grateful for the severity-reducing properties that it does have – for the *individual, private benefit* it confers, conditional upon infection – but it is simply *not* the smallpox vaccine, or the polio vaccine that some who appear to want this measure may remember from their youth. It is a category error to pretend and treat it as such, an especially serious and dire one to craft an autocratic public policy on the basis of that misapprehension and pretense, to blindly proceed as if it necessarily has the same community benefit as those do.

“Layering” and risk models instead of reality

At this point, after (reluctantly) conceding a risk-mitigation benefit to be small, the notion of “layered mitigation” is typically invoked, so it was no surprise to hear it in last week’s testimony. The idea here appears to be that while this mitigation attempt may have (as the Assistant Chief Administrative Officer – significantly, from a legal perspective – freely acknowledged in testimony when touting this “layering”) at most a small effect, if you “layer” it with other things, some kind of magic happens turning the small effects into a large effect.

This vague, hand-waving notion, I can only assume, stems from simple product-rule arithmetic used in risk and probability theory. But this claim as used here represents a laughably muddled and hyperbolic representation of anything resembling the actual mathematics. Regardless of which social-media-viral infographics one may have seen, when two interventions have statistically negligible effects, no amount or permutation of “layering” them together somehow automatically inflates the combination into a highly-efficacious risk measure.

And again, we can see *empirically, from actual real-world results* that a vaccine passport measure has no significant effect. We simply do not need to resort to this kind of theoretical, simplistic-model-based, *a priori* reasoning, given by the Assistant Chief Administrative Officer, that mitigations that are modest are expected to “layer” into one that isn’t, in the first place. To a reality-based policy maker – which it is my sincere hope at least some of you aspire to be – the assertions, musings, and back-of-the-envelope, rule-of-thumb intuitions of a County employee ought not take precedence over, or be deemed an acceptable substitute for, reality.

The real, and ugly, objective

So what are we actually left with as justification for this measure? Public statements in this regard have been telling (all emphases mine):

“[a vaccine passport] actually would **encourage people** to do more things,” by making it “**more difficult for the unvaccinated to come in contact** with people who are vaccinated. [...] [W]e actually could become the destination to go to **if people have a confidence level that dining** in Montgomery County is safer.”

(Elrich, WTOP, 9/1/21)

“We have a lot of federal officials who live and work and bring guests into Montgomery County ... We want to make sure that our residents are kept safe **by people who are not necessarily from Montgomery County**”

(Elrich, Bethesda Magazine, 12/22/21)

...for now, it provides **peace of mind**, he said. [...]

At its best, it will **improve the confidence of Montgomery County residents** to patronize small business in the community”

(Riemer, Bethesda Magazine, 1/11/22)

“...90% of **people would want to know** that the folks that are going into that congregate [sic] setting they’re in are vaccinated”

(Jawando, 1/18/22 Council Session)

“...so that **folks are comfortable** in an eating or restaurant environment, or those other places that are proposed”

(Bridgers, 1/18/22)

(Why is a public health official concerning himself with whether people “are comfortable” in restaurants?)

Notice that these “defenses” of a vaccine passport are all statements about peoples’ *beliefs* and *feelings* (and in some cases, business/economics, and excluding people who are not “from” here). *Not disease*, or epidemiology, or science, or anything of the sort. Such statements could be made of anything that a majority dislikes or fears and therefore wants to exclude.

Notice also how petty, insular, and *classist* they ultimately are. Confidence? Comfort?

...Dining?

A simple reminder, Council: what you’re talking about is excluding thousands of five-year-olds from public life. To make Marc Elrich “comfortable”. When “dining”.

The clear picture emerging here is that this is primarily a measure put forth not (as the Health Code provides) “against disease” as such, but **against people**. It is a policy crafted and specifically designed to indulge and assuage *peoples’ fears*, of other people. How they feel when around them. To protect and calm their fears of being near them. Whether they’re “comfortable” with such people nearby. Satisfying their desire to exclude them. You know, people “not necessarily from Montgomery County”. And in some cases, sadly: to express their outright antipathy and animus toward them. What is now being considered – apparently seriously – by you as a county’s elected public servants are nothing less than demands, from some, including (contempibly) from its own Executive, for a county government to make *them* more “comfortable”, by excluding a subgroup. In plain words, to shun. To segregate. To hold apart.

In this “liberal”, “tolerant”, “inclusive” county.

I have explained why any such “peace of mind” obtained from successfully engineering this medical apartheid, if (despite the pragmatic and logistical issues as raised by many others) that would even be the result, would be unjustified and baseless, that any “comfort” thus given stems from a false sense of security rooted in ignorance and misunderstanding of what the vaccine does and does not do. I’ll add that, on principle alone, I will not participate in or patronize any establishment so covered or that is enforcing such a thing, regardless of my own vaccination status.

I’ll just close by noting that the history of governments restricting, enjoining or segregating a minority group of people to indulge the disdain and ignorance-driven fears of another, larger and/or more politically powerful and connected group of people, with the implicit or (in this case, astoundingly) *explicit goal* of angering (“p***ing off”) the former and making the latter “more comfortable”, has a long, ugly, and nasty pedigree. Each of you on the Council now faces a tremendous, exciting opportunity – to step back from the brink of this mistake, to demonstrate courage, wisdom, and leadership, and **avoid adding your name**, permanently and irrevocably, **to that history**. The good news is that the way that you can do this is actually very simple: by voting No on this unjustifiable, abhorrent proposal put forward by the County Executive. I encourage you all to seize this opportunity. It’s a good one. Because this might be the most significant decision of your political careers.

Christopher Cameron