

**DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)**

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

YITZCHOK LEBOVITS and
CHANA SHAPIRO-LEBOVITS, on
their own behalf and on behalf of their
daughters E.L., a minor, and A.L., a
minor; and
BAIS YAAKOV ATERES MIRIAM, a
New York religious corporation,

Plaintiffs,

v.

ANDREW M. CUOMO, individually
and in his official capacity as Governor
of the State of New York;
BILL DE BLASIO, individually and in
his official capacity as Mayor of the
City of New York;
LETITIA JAMES, in her official capac-
ity as Attorney General of the State of
New York;
HOWARD A. ZUCKER, in his official
capacity as Commissioner of the New
York State Department of Health;
CITY OF NEW YORK; and
NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE,

Civil No. 1:20-cv-01284-GLS-DJS

**DECLARATION OF
ERIC C. RASSBACH**

I, Eric C. Rassbach, declare:

1. I am a senior counsel at the Becket Fund for Religious Liberty. I represent Plaintiffs in the above-captioned matter.
2. This Declaration is being submitted in support of Plaintiffs' motion for a temporary restraining order.

3. On various dates in October 2020, I and other colleagues from my firm accessed the websites for relevant New York State and New York City agencies and departments, as well as official Twitter accounts.
4. Attached as Exhibit A is a true and correct copy of a tweet sent from Governor Andrew Cuomo's official Twitter account (@NYGovCuomo) on September 30, 2020 at 12:09 PM. The tweet can be accessed at <https://twitter.com/NYGovCuomo/status/1311337339197808641>.
5. Attached as Exhibit B is a true and correct copy of the New York webpage memorializing the Governor's Executive Order No. 202.68. The webpage and Executive Order are dated October 6, 2020 and entitled *No. 202.68: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency* and can be accessed at <https://perma.cc/QV5W-YF2M>.
6. Attached as Exhibit C is a true and correct copy of the New York webpage memorializing the Governor's Executive Order No. 202.69. The webpage and Executive Order are dated October 14, 2020 and entitled *No. 202.69 Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency* and can be accessed at <https://perma.cc/979Q-7XEX>.
7. Attached as Exhibit D is a true and correct copy of the New York State webpage memorializing Governor Cuomo's September 28, 2020 COVID-19 press briefing. The webpage is entitled *Audio & Rush Transcript: Governor Cuomo De-ploys Rapid Result Testing Machines to Address Recent Uptick in Cases in Cluster Zip Codes* and can be accessed at <https://perma.cc/NR6P-Q5M5>.
8. Attached as Exhibit E is a true and correct copy of the New York State webpage memorializing Governor Cuomo's October 1, 2020 COVID-19

press briefing. The webpage is entitled *Audio & Rush Transcript: Governor Cuomo Updates New Yorkers on State's Progress During Covid-19 Pandemic* and can be accessed at <https://perma.cc/ZE7S-WSSC>.

9. Attached as Exhibit F is a true and correct copy of a three-page document from the New York City Department of Health and Mental Hygiene entitled *Order of the Commissioner of Health and Mental Hygiene* from September 28, 2020. The order can be accessed at <https://perma.cc/6AX3-8ZNT>.
10. Attached as Exhibit G is a true and correct copy of the New York State webpage memorializing Governor Cuomo's October 5, 2020 COVID-19 press briefing. The webpage is entitled *Video, Audio, Photos & Rush Transcript: Governor Cuomo Updates New Yorkers on State's Progress During COVID-19 Pandemic* and can be accessed at <https://perma.cc/67T4-TDPH>.
11. Attached as Exhibit H is a true and correct copy of the New York State webpage memorializing Governor Cuomo's October 6, 2020 COVID-19 press briefing. The webpage is entitled *Video, Audio, Photos & Rush Transcript: Governor Cuomo Announces New Cluster Action Initiative* and can be accessed at <https://perma.cc/7ADE-UPL7>.
12. Attached as Exhibit I is a true and correct copy of the New York State webpage that offered additional guidance on the Governor's Cluster Action Initiative and was dated October 7, 2020. The webpage is entitled *Guidance for Determining Whether a Business Enterprise is Subject to a Workforce Reduction Under Executive Order 202.68, Related to New York's Cluster Action Initiative to Address COVID-19 Hotspots* and can be accessed at <https://perma.cc/9WL8-EVW6>.
13. Attached as Exhibit J is a true and correct copy of the New York State webpage memorializing Governor Cuomo's October 8, 2020 COVID-19

press briefing. The webpage is entitled *Audio & Rush Transcript: Governor Cuomo Announces New Record High Number of COVID-19 Tests Reported* and can be accessed at <https://perma.cc/UK6H-JAKE>.

14. Attached as Exhibit K is a true and correct copy of the New York State webpage memorializing Governor Cuomo's October 9, 2020 interview with reporters from CNN. The webpage is entitled *Audio & Rush Transcript: Governor Cuomo Is a Guest on CNN Newsroom with Poppy Harlow and Jim Sciutto* and can be accessed at <https://perma.cc/LDV2-8EVR>.
15. Attached as Exhibit L is a true and correct copy of the New York State webpage memorializing Governor Cuomo's October 12, 2020 COVID-19 press briefing. The webpage is entitled *Audio & Rush Transcript: Governor Cuomo Updates New Yorkers on State's Progress During COVID-19 Pandemic* and can be accessed at <https://perma.cc/KR96-G4BP>.
16. Attached as Exhibit M is a true and correct copy of the New York State webpage memorializing Governor Cuomo's October 14, 2020 COVID-19 press briefing. The webpage is entitled *Audio & Rush Transcript: Governor Cuomo Announces State Will Withhold Funds for Localities and Schools in COVID-19 Cluster Zones If They Fail to Enforce Public Health Law* and can be accessed at <https://perma.cc/6HR8-7CBA>.
17. Attached as Exhibit N is a true and correct copy of the New York State webpage memorializing Governor Cuomo's October 15, 2020 COVID-19 press briefing. The webpage is entitled *Audio & Rush Transcript: Governor Cuomo Announces State to Provide 200,000 Rapid Test Kits to New York City Schools in "Yellow Zones"* and can be accessed at <https://perma.cc/TGB8-XFRC>.
18. Attached as Exhibit O is a true and correct copy of an October 5, 2020 New York Times article by Daniel E. Slotnik entitled *A New Battle Against the*

Virus Is Set for 9 ZIP Codes. The article can be accessed at <https://perma.cc/43SU-KMYG>.

19. Attached as Exhibit P is a true and correct copy of an October 5, 2020 New York Times article by Amelia Nierenberg and Adam Pasick entitled *N.Y.C. Closes Some Schools . . . Again*. The article can be accessed at <https://perma.cc/UL4F-55VP>.

20. Attached as Exhibit Q is a true and correct copy of an October 5, 2020 New York Post article by Bernadette Hogan and Tamar Lapin entitled *Cuomo used 14-year-old photo to show mass Orthodox gatherings during pandemic*. The article can be accessed at <https://perma.cc/PA9D-KEWV>.

21. Attached as Exhibit R is a true and correct copy of an October 6, 2020 New York Daily News article by Denis Slattery entitled *Only essential businesses to remain open in COVID-19 hotspots; schools remained closed: Cuomo*. The article can be accessed at <https://www.nydailynews.com/news/politics/ny-nyc-coronavirus-cuomo-de-blasio-cluster-action-initiative-20201006-hmz2bzfnmrcqllyudua7qmmjdu-story.html>.

22. Attached as Exhibit S is a true and correct copy of an October 7, 2020 NBC New York article by Jennifer Millman entitled *NYC Shutdowns in Cluster Zones Start Thursday; Fines Up to \$15,000 a Day Apply for Violations*. The article can be accessed at <https://perma.cc/TY7E-7M6A>.

23. Attached as Exhibit T is a true and correct copy of an October 9, 2020 Atlantic Article by Emily Oster entitled *Schools Aren't Super-Spreaders: Fears from the summer appear to have been overblown*. The article can be accessed at <https://perma.cc/4EXH-Y6F2>.

24. Attached as Exhibit U is a true and correct copy of a news article containing an audio recording of Governor Cuomo speaking on a telephone call with leaders of the Orthodox Jewish community. I have heard Governor Cuomo

speak on multiple occasions, namely through video recordings of his COVID-19 press briefings. This audio recording can be accessed at <https://hamodia.com/2020/10/12/exclusive-recording-jewish-leaders-say-stabbed-back-cuomo/>.

25. Attached as Exhibit V is a true and correct copy of an October 13, 2020 New York Times article by Ali Watkins entitled *Over \$150,000 in Fines Issued on First Weekend of New N.Y.C. Lockdown*. The article can be accessed at <https://perma.cc/UE8L-KDDZ>.
26. Attached as Exhibit W is a true and correct copy of a webpage from Johns Hopkins University of Medicine's Coronavirus Resource Center. The webpage is entitled Daily State-by-State Testing Trends and shows a national average positivity rate of 5.3% as of October 17, 2020. The webpage can be accessed at <https://perma.cc/BK6L-844N>.
27. In October 2020, members of my law firm personally accessed and viewed (1) a map of the 20 ZIP codes affected by Mayor de Blasio's renewed COVID-19 restrictions announced on October 4, 2020, which was published by the New York Times at <https://perma.cc/8SC2-BTGW>; and (2) a map of Brooklyn featuring the "clusters" identified by Governor Cuomo's Cluster Action Initiative, which can be accessed at <https://perma.cc/9YYN-YU5W>. These maps appear on the first two pages of the attached Exhibit X. Members of my law firm then superimposed the relevant portions of these maps on a map of Orthodox Jewish synagogues, yeshivas, and businesses in Brooklyn, which was published in a journal article by Patrick Gallagher entitled *Identification and Analysis of Orthodox Jewish Enclaves in Brooklyn, New York: A GIS Based Approach*, 42 Middle States Geographer 83 (2009), <https://perma.cc/6YJZ-FF84>. The resulting map appears on the third page of the attached Exhibit X.

28. Attached as Exhibit Y is a true and correct copy of an October 17, 2020 WGRZ-NBC article entitled *New York State announces 'micro-cluster strategy' to tackle COVID-19 hotspots*. The article can be accessed at <https://www.wgrz.com/article/news/health/coronavirus/cluster-action-initiative-will-become-more-specific/71-cf1e7e41-850c-48c0-8887-82c610258d2a>.
29. Attached as Exhibit Z is a true and correct copy of an October 6, 2020 Reuters article by Gabriella Borter entitled *In face of COVID-19 spike, New York Orthodox Jews take holiday prayers outside*. The article can be accessed at <https://www.reuters.com/article/us-health-coronavirus-new-york-judaism/in-face-of-covid-19-spike-new-york-orthodox-jews-take-holiday-prayers-outside-idUSKBN26R34S>.
30. Attached as Exhibit AA is a true and correct copy of a tweet sent from New York City Mayor Bill de Blasio's official Twitter account (@NYCMayor) on April 28, 2020 at 9:35 PM. The tweet can be accessed at <https://twitter.com/NYCMayor/status/1255309615883063297>.
31. Attached as Exhibit BB is a true and correct copy of an April 29, 2020 New York Times article by Liam Stack entitled *2,500 Mourners Jam a Hasidic Funeral, Creating a Flash Point for de Blasio*. The article can be accessed at <https://perma.cc/4W2K-3ZFL>.
32. Attached as Exhibit CC is a true and correct copy of a June 19, 2020 Newsweek article by Melissa Langsam Braunstein entitled *Investigate Mayor de Blasio: Opinion*. The article can be accessed at <https://perma.cc/Q6TC-JNU3>.
33. Attached as Exhibit DD is a true and correct copy of an October 9, 2020 New York Times article by Nicole Hong and Liam Stack entitled *Cuomo's*

Restrictions on Synagogues in Virus Hot Spots Can Go Forward. The article can be accessed at <https://perma.cc/K7DY-P3JC>.

34. Attached as Exhibit EE is a true and correct copy of an October 1, 2020 Reason article by Josh Blackman entitled *NYC Imposes Additional Requirements on Private Schools in Predominantly Jewish Neighborhoods in Queens and Brooklyn*. This article can be accessed at <https://perma.cc/5DEA-CDXA>.

35. Attached as Exhibit FF is a true and correct copy of a New York State webpage memorializing Governor Cuomo's October 6, 2020 COVID-19 press briefing. The webpage is entitled *Governor Cuomo Announces New Cluster Action Initiative* and can be accessed at <https://perma.cc/AT8N-N2UH>.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: October 19, 2020

Respectfully submitted,

s/ Eric C. Rassbach

Eric C. Rassbach

N.D.N.Y. Bar Number: 302836

Attorney for Plaintiffs

The Becket Fund for Religious Liberty

EXHIBIT A
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

← **Tweet**



Andrew Cuomo ✓
@NYGovCuomo



Almost a quarter of yesterday's positive cases were from just 20 hotspot ZIP codes.

We are targeting these clusters immediately to prevent community spread.

If you live in one of these ZIP codes, treat this seriously.

Wear a mask. Wash your hands often. Get tested.

County	ZIP	Positivity	Positive Tests	Tests conducted
Rockland	10952	17%	34	200
Rockland	10977	14%	50	350
Kings	11230	8%	29	342
Kings	11204	6%	13	223
Kings	11219	5%	12	260
Kings	11223	4%	11	253
Kings	11229	4%	11	286
Kings	11210	4%	7	182
Kings	11234	4%	10	279
Bronx	10465	4%	5	140
New York	10040	4%	7	198
Orange	10950	3%	3	86
Queens	11374	3%	5	151
Richmond	10306	3%	5	152
Richmond	10304	3%	6	185
Suffolk	11717	3%	4	125
Nassau	11580	3%	4	138
Queens	11691	3%	7	255
Suffolk	11746	3%	5	183
Bronx	10462	3%	7	266

12:09 PM · Sep 30, 2020 · Twitter Web App

883 Retweets 207 Quote Tweets 2.6K Likes



EXHIBIT B
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)



OCTOBER 6, 2020 Albany, NY

No. 202.68: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency

No. 202.68

EXECUTIVE ORDER

Continuing Temporary Suspension and Modification of Laws

Relating to the Disaster Emergency

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, or to provide any directive necessary to respond to the disaster, do hereby continue the

suspensions and modifications of law, and any directives not superseded by a subsequent directive contained in Executive Orders 202.31, 202.41, 202.42, 202.43, 202.51, 202.52, 202.56, as contained in Executive Order 202.63, and Executive Orders 202.61 and 202.62 for another thirty days through November 5, 2020, and I hereby temporarily suspend or modify the following from the date of this Executive Order through November 5, 2020:

- Sections 12 and 206 of the Public Health Law, to the extent necessary to, notwithstanding any other provision of this Executive Order, provide that any individual who encourages, promotes or organizes a non-essential gathering as set forth in Department of Health regulation, shall be liable for a civil penalty not to exceed \$15,000 per day; and
- Sections 12-a and 206(4) of the Public Health Law, to the extent necessary to authorize, at the direction of the Commissioner of Health or the Commissioner's representative, any local government official to assess, and the local government to retain, a civil penalty for violations of Executive Orders issued pursuant to Section 29-A of the Executive Law, or any regulations of the Department of Health, that impose requirements pertaining to maintaining social distance and wearing of face coverings, for the duration of this disaster emergency, and to conduct any hearing related to such penalties. Such penalties, if assessed on an individual basis, shall not exceed \$1,000 per violation, except as otherwise provided herein.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I do hereby issue the following directives through November 5, 2020:

- The Department of Health shall determine areas in the State that require enhanced public health restrictions based upon cluster-based cases of COVID-19 at a level that compromises the State's containment of the virus. Certain activities

shall be restricted and any permitted activities, in all three zones below, shall be conducted in strict adherence to Department of Health guidance.

- Based upon the severity of the cluster activity, the Department of Health shall adopt in the most severe, or “red zones,” the following mitigation measures:
 - Non-essential gatherings of any size shall be postponed or cancelled; all non-essential businesses, as determined by the Empire State Development Corporation based upon published guidance, shall reduce in-person workforce by 100%; houses of worship shall be subject to a capacity limit of 25% of maximum occupancy or 10 people, whichever is fewer; any restaurant or tavern shall cease serving patrons food or beverage on-premises and may be open for takeout or delivery only; and the local Department of Health shall direct closure of all schools for in-person instruction, except as otherwise provided in Executive Order.
- In moderate severity warning areas or “orange zones” the following mitigation measures:
 - Non-essential gatherings shall be limited to 10 people; certain non-essential businesses, for which there is a higher risk associated with the transmission of the COVID-19 virus, including gyms, fitness centers or classes, barbers, hair salons, spas, tattoo or piercing parlors, nail technicians and nail salons, cosmetologists, estheticians, the provision of laser hair removal and electrolysis, and all other personal care services shall reduce in-person workforce by 100%; houses of worship shall be subject to a maximum capacity limit of the lesser of 33% of maximum occupancy or 25 people, whichever is fewer; any restaurant or tavern shall cease serving patrons food or beverage inside on-premises but may provide outdoor service, and may be open for takeout or delivery, provided however, any one seated group or party shall not exceed 4 people; and the local

Department of Health shall direct closure of all schools for in-person instruction, except as otherwise provided in Executive Order.

- In precautionary or “yellow zones,” the following mitigation measures:
 - Non-essential gatherings shall be limited to no more than 25 people; houses of worship shall be subject to a capacity limit of 50% of its maximum occupancy and shall adhere to Department of Health guidance; any restaurant or tavern must limit any one seated group or party size to 4 people; and the Department of Health shall issue guidance by October 9, 2020 regarding mandatory testing of students and school personnel, and schools shall adhere to such guidance.
- The above directive shall be effective immediately, and at such time as notice is provided to such affected areas, may be enforced and shall be enforced no later than Friday, October 9, 2020, as determined by the county in which the red zones, orange zones, and yellow zones are located.

G I V E N under my hand and the Privy Seal of
the State in the City of Albany this
sixth day of October in the year two
thousand twenty.

BY THE GOVERNOR

Secretary to the Governor

EXHIBIT C
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)



OCTOBER 14, 2020 Albany, NY

No. 202.69 Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency

No. 202.69

EXECUTIVE ORDER

Continuing Temporary Suspension and Modification of Laws

Relating to the Disaster Emergency

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue:

NOW THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, or to provide any directive necessary to respond to the disaster, do hereby continue the suspensions and modifications of law, and any directives not superseded by a subsequent directive contained in Executive Orders 202.22 through 202.26, 202.32, 202.33, 202.34, 202.35, 202.44, 202.45, 202.53, 202.57, as continued and contained in Executive Order 202.64 for another thirty days through November 13, 2020, except:

- Subdivision (a) of Section 301 of the Vehicle and Traffic Law, to the extent that it requires annual safety inspections and at least biennial emissions inspections, shall no longer be suspended or modified as of November 3, 2020.

IN ADDITION, I hereby temporarily suspend or modify the following from the date of this Executive Order through November 13, 2020:

- The modification in Executive Order 202 of subdivision 4 of section 6909 of the Public Health Law, subdivision 6 of section 6527 of the Education Law, and section 64.7 of Title 8 of the NYCRR, to the extent necessary to permit physicians and certified nurse practitioners to issue a non-patient specific regimen to nurses or any such other persons authorized by law or by executive order to collect throat or nasopharyngeal swab specimens from individuals suspected of suffering from a COVID-19 infection, for purposes of testing, or to perform such other tasks as may be necessary to provide care for individuals diagnosed or suspected of suffering from a COVID-19 infection is hereby modified to also include saliva swab specimens.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I do hereby issue the following directive through November 13, 2020:

- In furtherance of the protection of public health, and in recognition of the extreme consequences failure to adhere to the restrictions set forth in Executive Order 202.68 presents, the director of the budget is authorized to withhold any funds appropriated in the FY20 Enacted Budget to or for, directly or indirectly, a public or nonpublic school or school district and/or to a locality for the period of time that such school district, school or locality is found to have been in violation of Executive Order 202.68, or for the period of time that such school district, school, or locality is in violation of any order of the department of health issued pursuant to Executive Order 202.68.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this fourteenth day of October in the year two thousand twenty.

BY THE GOVERNOR

Secretary to the Governor

EXHIBIT D
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)



SEPTEMBER 28, 2020 Albany, NY

Governor Cuomo Deploys Rapid Result Testing Machines to Address Recent Uptick in Cases in Cluster Zip Codes

1.5 Percent of Yesterday's COVID-19 Tests were Positive

10 ZIP Codes in NYS - Where 3 Percent of NYS Population Resides - Accounted for 27 Percent of Positive Tests

State Deploying Up to 200 Rapid Result Testing Machines and Kits to ZIP Codes with Upticks in Cases

Hospitalizations and Intubations Remain Flat; Number of ICU Patients Down

SLA and State Police Task Force Visits 988 Establishments; Observes 5 Establishments Not in Compliance

Confirms 834 Additional Coronavirus Cases in New York State - Bringing Statewide Total to 456,460; New Cases in 42 Counties

Governor Andrew M. Cuomo today updated New Yorkers on the state's progress during the ongoing COVID-19 pandemic.

The Governor detailed the uptick in cases and test positivity in select ZIP codes in New York State, where 27% of positive tests reported on Sunday came from ten ZIP codes where just 3% of the state's population resides, and 37% of positive cases came from 20 ZIP codes

where just 6% of the state's population resides. The Governor also noted that while the state's overall positivity rate for Sunday's tests is 1.5%, the positivity rate outside of the top 20 ZIP codes for new cases was just 1%.

New York will deploy 200 rapid testing machines to the sites of several upticks in specific counties and zip codes throughout the state. The areas are Brooklyn, Orange County, Rockland County and the Southern Tier. New York State can provide Department of Health staff and rapid testing machines to zip codes and local governments that need them. The number of new cases, percentage of tests that were positive and many other helpful data points are always available at forward.ny.gov.

"We're coming into the fall and all the health experts say you have to be careful about the fall. People go indoors, colleges open, and it's flu season. We have spikes in other states and we have a global spike," **Governor Cuomo said**. "We're also seeing in these numbers significant increases in localized clusters from Brooklyn, Orange and Rockland counties and the Southern Tier. This is the point of the testing we're doing, to be able to pinpoint and identify the clusters to find where the cases are coming from. We have specific zip codes in Brooklyn that we're going to be looking at because it's very localized and our health officials are going to be reaching out to those Brooklyn communities, and in Orange and Rockland communities today to do additional testing and compliance measures in those areas."

Areas that had high positivity rates and that will be subject of focused testing efforts including access to rapid testing machines are as follows, and will be updated as daily test results come in:

REGION	COUNTY	ZIP	% POSITIVE	TESTS	POSITIVES
Mid-Hudson	Rockland	10977	30%	209	63
Mid-Hudson	Rockland	10952	25%	114	29

Mid-Hudson	Orange	10950	22%	73	16
Mid-Hudson	Rockland	10901	18%	51	9
NYC	Kings	11219	17%	155	26
NYC	Kings	11210	11%	148	17
Southern Tier	Broome	13905	10%	131	13
NYC	Kings	11204	9%	139	13
NYC	Kings	11230	9%	269	23
NYC	Queens	11367	6%	114	7

New York's slight uptick in statewide positive test results comes amid number of spikes in countries such as France, Spain and Israel and other states in the U.S.:

- **Wisconsin:** 18.5% positivity rate
- **Iowa:** 16.4% positivity rate
- **Utah:** 12.9% positivity rate
- **Missouri:** 12.3% positivity rate
- **Florida:** 10.8% positivity rate
- **Arizona:** 5.1% positivity rate

Yesterday, the State Liquor Authority and State Police Task Force visited 988 establishments in New York City and Long Island and observed 5 establishments that were not in compliance with state requirements. A county breakdown of yesterday's observed violations is below:

- **Bronx** - 2
- **Suffolk** - 3

Today's data is summarized briefly below:

- **Patient Hospitalization** - 543 (+2)
- **Patients Newly Admitted** - 63
- **Hospital Counties** - 33
- **Number ICU** - 135 (-20)
- **Number ICU with Intubation** - 57 (-2)
- **Total Discharges** - 76,649 (+54)
- **Deaths** - 11
- **Total Deaths** - 25,468

Of the 52,936 test results reported to New York State yesterday, 834, or 1.5 percent, were positive. Each region's percentage of positive test results reported over the last three days is as follows:

REGION	FRIDAY	SATURDAY	SUNDAY
Capital Region	0.7%	0.5%	0.9%
Central New York	0.6%	1.1%	0.8%
Finger Lakes	0.4%	0.7%	0.6%
Long Island	0.9%	1.0%	1.2%

Mid-Hudson	1.6%	1.6%	3.1%
Mohawk Valley	0.5%	0.2%	1.2%
New York City	1.1%	1.2%	1.6%
North Country	0.2%	0.2%	0.4%
Southern Tier	1.2%	1.4%	3.6%
Western New York	1.3%	0.7%	0.9%

Each New York City borough's percentage of positive test results reported over the last three days is as follows:

BOROUGH	FRIDAY	SATURDAY	SUNDAY
Bronx	0.9%	1.0%	1.0%
Brooklyn	1.6%	2.0%	2.6%
Manhattan	0.5%	0.4%	0.8%

Queens	1.0%	1.2%	1.6%
Staten Island	1.2%	1.0%	1.3%

The Governor also confirmed 834 additional cases of novel coronavirus, bringing the statewide total to 456,460 confirmed cases in New York State. Of the 456,460 total individuals who tested positive for the virus, the geographic breakdown is as follows:

County	Total Positive	New Positive
Albany	3,104	9
Allegany	106	0
Broome	1,606	34
Cattaraugus	260	0
Cayuga	218	3
Chautauqua	578	5

Chemung	470	9
Chenango	251	2
Clinton	161	1
Columbia	591	0
Cortland	171	0
Delaware	135	1
Dutchess	5,124	4
Erie	11,359	17
Essex	168	1
Franklin	66	0
Fulton	337	2

Genesee	321	0
Greene	323	0
Hamilton	15	0
Herkimer	335	1
Jefferson	170	0
Lewis	50	0
Livingston	207	0
Madison	493	0
Monroe	6,045	19
Montgomery	232	0
Nassau	46,711	68

Niagara	1,780	3
NYC	243,072	379
Oneida	2,420	8
Onondaga	4,379	14
Ontario	474	1
Orange	12,062	26
Orleans	335	0
Oswego	493	0
Otsego	340	2
Putnam	1,604	5
Rensselaer	913	2

Rockland	15,277	110
Saratoga	1,052	8
Schenectady	1,403	1
Schoharie	85	0
Schuyler	41	0
Seneca	106	0
St. Lawrence	324	2
Steuben	420	4
Suffolk	46,428	41
Sullivan	1,594	3
Tioga	237	2

Tompkins	414	1
Ulster	2,264	4
Warren	383	2
Washington	299	3
Wayne	320	2
Westchester	38,133	35
Wyoming	137	0
Yates	64	0

Yesterday, there were 11 deaths due to COVID-19 in New York State, bringing the total to 25,468. A geographic breakdown is as follows, by county of residence:

Deaths by County of Residence	
County	New Deaths

Bronx	1
Erie	1
Kings	2
Manhattan	1
Monroe	1
Oneida	1
Onondaga	1
Queens	1
Steuben	1
Suffolk	1

Contact the Governor's Press Office



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EXHIBIT E
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)



OCTOBER 1, 2020 Albany, NY

Audio & Rush Transcript: Governor Cuomo Updates New Yorkers on State's Progress During COVID-19 Pandemic

Top 20 Hotspot ZIP Codes Have 6.5 Percent Positivity Rate

Statewide Positivity Excluding Hotspot ZIP Codes is 0.98 Percent; 1.27 Percent with Hotspot ZIP Codes Included

11 COVID-19 Deaths in New York State Yesterday

SLA and State Police Task Force Visits 1,065 Establishments; Observes 7 Establishments Not in Compliance

Confirms 1,382 Additional Coronavirus Cases in New York State - Bringing Statewide Total to 460,031; New Cases in 45 Counties

Governor Cuomo: "The 20 hotspots are 26 percent of all cases in New York State and remember, 20 ZIP codes — that's out of 1,740 ZIP codes. The 20 ZIP codes are only 6 percent of the state population. If you take out the hotspot ZIP codes, the rest of the state without the ZIP codes is where it's supposed to be - better than where it's supposed to be; it's 0.98. So, it's under 1 percent. And again remember, 1 percent is the lowest infection rate in the United States of America."

Cuomo: "These 20 hotspot ZIP codes require full attention, and effectiveness, and action. As I've said before, a cluster today can become community spread tomorrow. These ZIP codes are not hermetically sealed I've said to the local governments we need an all-out compliance effort. It has to be enforcement; it's no longer about public education. If they're not wearing masks, there should be fines. Enforcement works."

Earlier today, Governor Andrew M. Cuomo updated New Yorkers on the state's progress during the ongoing COVID-19 pandemic. The number of new cases, percentage of tests that were positive and many other helpful data points are always available at forward.ny.gov.

AUDIO of today's remarks is available [here](#).

A rush transcript of the Governor's remarks is available below:

Good morning to everyone. I'm joined by Melissa DeRosa, Robert Mujica, Dr. Zucker, Gareth Rhodes, Beth Garvey and a special guest appearance, reappearance, from Lawrence Schwartz, who has been helping us out as a volunteer during this COVID situation. As you know, he's former Secretary to the Governor - former Secretary to two Governors, actually.

Today is day 215. 109,000 tests results were done yesterday. Stay with me, because the numbers are important today, and we have to keep apples to apples, oranges to oranges. We are now testing, basically, the overall state the way we've been testing the overall state, and then we are oversampling the hotspot ZIP codes, the clusters that we're seeing in Rockland, Orange, Brooklyn, mainly. The 20 hotspot ZIP codes, the positivity is 6.5; that's up from 5.5. Within those hotspot ZIP codes, there are increases primarily in Brooklyn, where we've seen ZIP codes 11223 went from 4 percent to 8 percent. 11210 from 3.8 to 7.4. 11235 from 1.9 to 4. Also, we've seen an increase in Rockland, most notably 10901 from 4 to 12. And 10950 from 3 to 16 percent. The Rockland numbers are small samples, so I would take them with a grain of salt. But the overall hotspots have gone from 5.5 to 6.5; that's up a point and we've seen growth in Brooklyn and a little bit in Rockland.

These 20 hotspot ZIP codes require full attention, and effectiveness, and action. As I've said before, a cluster today can become community spread tomorrow. These ZIP codes are not hermetically sealed, right? People from these ZIP codes go to the surrounding community. They shop in the surrounding communities, they take buses, et cetera. And that's how you have community spread. I've said to the local governments we need an all-out compliance effort. It has to be enforcement; it's no longer about public education. The public has been educated about masks. I don't think there's been a topic in my lifetime that has been more exhaustively communicated to the public, in terms of public health, than mask wearing. If they're not wearing masks, there should be fines, there should be enforcement. Enforcement works. If you speed in your car, you get it a ticket. That's how it works. If you don't pay a toll when you go over a bridge, you get a ticket. That's how it works. Compliance works, enforcement works. We're in this situation partially because the local governments haven't been doing the compliance, and we need them to do it. Or, if they don't want to do it, assign personnel to the state and I will do it the same way we did the SLA task force in the bars and the restaurants, which is a very analogous situation to this. But we need enforcement and compliance.

If you take out the hotspot ZIP codes, the rest of the state without the ZIP codes is where it's supposed to be -- better than where it's supposed to be; it's 0.98. So, it's under 1 percent. And again remember, 1 percent is the lowest infection rate in the United States of America. So, it's a very high standard. It's the highest, it's the gold standard in the country. If you included the oversample of the hotspot ZIP codes in the state number, it's 1.2, but including the oversample, really is not statistically relevant. The 20 hotspots are 26 percent of all cases in New York State and remember, 20 ZIP codes — that's out of 1,740 ZIP codes. The 20 ZIP codes are only 6 percent of the state population.

Eleven New Yorkers passed away, 612 were hospitalized, 141 were in ICU, 63 were intubated. When you look across the state: Capital District, .5, great. Central New York, 1, great. Finger Lakes, .7, great. Long Island, 1, great. Mid-Hudson, 2.8, not good. That's Orange and Rockland. Mohawk Valley, .8, great. North Country, .1, super great. Southern Tier, 1, Western New York, 1.7, caution flag. New York City 1.3, and New York City proportionately is the largest region by far,

so that's driving the number and within New York City, it's Brooklyn, a little bit of Queens. Those are the numbers.

The SLA Enforcement Task Force has been continuing. They have done a great job and they turned around the bar and restaurant situation, which would have been the most problematic situation. The bar and restaurant lack of compliance was throughout New York City and throughout Long Island. If we hadn't gotten a hold on that, it would have really increased community spread right away, but compliance is way up. We had 99 percent compliance yesterday. The bars and the restaurants have gotten the message: we're doing enforcement, you will be ticketed, you can lose your license. And it works. Bars and restaurants are not happy if they're getting tickets. I understand that. But I also understand that it worked, and that's what I need the local governments to understand. They wouldn't do the compliance in the bars and restaurants; we did. They're not doing the compliance in these hotspot ZIP codes and that's why we have the problems.

Enforcements actions by the SLA yesterday: two in the Bronx, one in Manhattan, four in Suffolk. On the education dashboard, the education dashboard is up. It will provide facts to parents, anxious parents, and teachers across the state. There's been a lot of controversy about opening schools. Principals in New York City think it's a mistake. Teachers Union Mike Mulgrew thinks they can do it. Parents have gotten mixed messages and they're unsure. I said we'll provide the data and we'll make a decision on the data. I understand everybody's theory, but let's get the actual numbers. The dashboard is up; the dashboard will show you that there are 1,206 positives reported both on-site and off-site from teachers, staff and students. A total of 1,206 positives on the school system statewide, and then they will tell you where those 1,206 positives are. So, you can look up your school, your school district, you can see how many teachers are positive, how many tests were done, how many students are positive and that data then can inform an opinion. Dr. Zucker, do you want to give any more information on the dashboard? How that 1,206 breaks down?

Dr. Zucker: We're working on that right now, Governor, what the percentages are. Don't have it right this second, Governor, but we'll get it to you in a few minutes here.

Governor Cuomo: Okay, well then people can go look at the 1,206 and see by their particular school district what they're most interested in. I've spoken to the Orthodox community with the hotspot zip codes. We had a good conversation. They're going to take action on their own- community action and I appreciate that. We're going to have public education. I appreciate that. We're going to be handing out flyers and mailing and that's a good step, but the community also says government is in charge of enforcement. And I told them it's going to be stepped up and they understand that.

We have a very exciting announcement that has taken a lot of work and it's really creative and smart and I think it can make a big difference. This is a technology-based contact tracing app. Larry Schwartz has been working on putting together the contact tracing operation for the state. As you know, testing is only as good as your contact tracing, right? Testing is to identify a person but so you can isolate and quarantine that person and then find the connections from that person. This contact tracing, we have about 15,000 people statewide who do contact tracing. They call them disease detectives. But we've been looking for a technology-based solution and Larry has been working with Bloomberg Philanthropies on this. They brought in Google, they brought in Apple and some other technology companies: NearForm, Tech: NYC, and the Linux Foundation. Today we are announcing an app that you can download for free from the app store called COVID Alert. What this app will do is, it will tell you if you were within 6 feet of a person who tested positive and if you were within 6 feet of a person who tested positive for 10 minutes. So, it will tell you if you're "in contact" with a COVID positive person. How does it work? It works from your cell phone data. The app knows where your cell phone is; the app will know where a person who tested positive was through their cell phone, and the app can tell you if you were within 6 feet of that person. The way it will work is when a person tests positive, the Department of Health contacts that person and asks that person if they have an iPhone and then gives that person a password. That person types in their password for their phone and then any other phone that comes within 6 feet of that phone is on the app. It doesn't give names. It doesn't give any private information. it's voluntary. You have to download the app but it's a great tool to alert you if you happen to be within 6 feet of a person who tests positive. It's called COVID Alert. Not only will it be for New York residents, but it will be New York, New Jersey, Pennsylvania, Delaware and Connecticut will be coming online soon. So, even if you're traveling in the Metropolitan area it will tell you if you were in contact with a person- it's using technology, really, on a level it's never been used

before. Google has been very helpful on this. Apple has been extraordinarily helpful on it. And I think it's going to not only bring contact tracing to a new level but it's going to give people comfort. Larry, do you want to correct any misstatements I made or give some more information on how it works?

Larry Schwartz: I will add to some of the things Governor that you had mentioned. So as the Governor stated the COVID Alert NY app is live today. It works on both Apple iPhones as well as any Android phone so you can either go to the Apple store, the Google Play store and download that app. The notification tool is an enhancement to the traditional contact tracing that the State is currently using, so this is an additional tool. We've been adding tools since May 15, as the Governor has alluded to, to minimize community spread, which is the ultimate goal of contact tracing and we did two pilot tests. We did one with SUNY, with Albany, Plattsburgh and Oswego with 1,000 students. We also did a pilot test with Columbia Engineering. This is an open source app so anyone can go in there and take a look at the app and the actual program. It's completely confidential. We don't collect any data. We don't track people so if there's any concern it's a completely voluntary program, it's for 18 and above, it's ADA-compliant, we've had security experts review the app, it's also in the top six languages spoken in New York State and what will happen is, as the Governor mentioned, if you have the app, if Governor Cuomo and Larry Schwartz both had the COVID Alert NY app on their iPhones and I tested positive and I was with him six feet for at least 10 minutes with Governor Cuomo, which would be my pleasure, I would get a notification and the notification would tell me to quarantine, to stay at home, and to call my physician or call the New York State or the New York City hotline about either getting tested or getting additional information. So again, it's an easy technology, it's an additional tool to our traditional contact tracing program to prevent community spread throughout the state.

Governor Cuomo: Thank you, Larry. We believe this is the first in the nation usage of this. It really is an advancement, an advancement that was done very quickly. Again, it's going to be for the states that we work in concert with because people do travel throughout the region and all the states in the region will be on this. I want to thank Larry Schwartz very much. I've known Larry for more years than I care to say. He's been a total government professional and I called him up and I asked him for a personal favor to come help here once again to do public

service and he's done an extraordinary job and I want to thank Mayor Bloomberg who took on this contact tracing task and Bloomberg Philanthropies. We were overloaded when this first started. We had to put together a surgeon Flex system, we had to put together a testing system and then we had to put together contact tracing so Larry Schwartz and Mayor Bloomberg really took this task on and as I said we will make it available to any other state in the country that wants to use it and it's a great, great tool. It will not only help us do contact tracing but can also get people a sense of security and confidence. You know anxiety is very high, everybody is wondering, I was next to this person, I was next to this person, but this can actually give you some data and facts can help reduce anxiety and that is a good thing. Sometimes facts can increase anxiety but that's more in my position in life.

Contact the Governor's Press Office



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EXHIBIT F
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

**ORDER OF THE COMMISSIONER
OF HEALTH AND MENTAL HYGIENE**

WHEREAS, on March 7, 2020, New York State Governor Andrew Cuomo issued Executive Order No. 202, declaring a State disaster emergency for the entire State of New York to address the threat that COVID-19 poses to the health and welfare of New York residents and visitors, and such order remains in effect; and

WHEREAS, on March 12, 2020, Mayor Bill de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in the City to address the threat posed by COVID-19 to the health and welfare of City residents; and such Emergency Executive Order directed the heads of all agencies, including the Department of Health and Mental Hygiene (the “Department”), to take all appropriate and necessary steps to preserve public safety and to render all required and available assistance to protect the security, well-being and health of the residents of the City, and such order remains in effect; and

WHEREAS, on March 25, 2020, pursuant to Section 3.01 of the New York City Health Code (“Health Code”), the existence of a public health emergency within the City as a result of COVID-19, for which certain orders and actions are necessary to protect the health and safety of the City of New York and its residents, was declared; and

WHEREAS, on September 4, 2020, Governor Cuomo issued Executive Order No. 202.60, authorizing schools to be open for instruction subject to adherence to New York State Department of Health guidance and directives, and the State Department of Health published guidance on August 26, 2020, setting forth health and safety requirements that public and private schools must meet in order to reopen during the COVID-19 pandemic, and requiring all schools to develop, in consultation with local health departments, a plan for reopening and operating during the COVID-19 pandemic, including a plan for the closure of school facilities and in-person instruction, if necessitated by widespread virus transmission; and

WHEREAS, pursuant to Section 558 of the New York City Charter (the “Charter”), the Board may embrace in the New York City Health Code (“Health Code”) all matters and subjects to which the power and authority of the Department extends, and pursuant to Section 556 of the Charter and Section 3.01 of the Health Code, the Department is authorized to supervise the control of communicable diseases and conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance of the protection of public health; and

WHEREAS, pursuant to Section 556 of the Charter, the Department is also authorized to promote or provide health services for school children in the City; and

WHEREAS, in the areas of the City described in this Order, COVID-19 incidence is increasing, despite efforts to combat the spread of COVID-19, such as diagnostic testing, case investigation, contact tracing, isolation, and quarantine; and

WHEREAS, at least 5 outbreaks have occurred in non-public schools in the areas of the City described in this Order between September 7, 2020 and September 22, 2020; and

WHEREAS, I find that the outbreaks of COVID-19 in these schools create an unnecessary and avoidable risk of illness and endangers the health of those attending and associated with such schools and is therefore a nuisance, as defined in New York City Administrative Code §17-142; and

WHEREAS, pursuant to Health Code Section 3.07, no person “shall do or assist in any act which is or may be detrimental to the public health or to the life or health of any individual . . . or . . . shall fail to do any reasonable act or take any necessary precaution to protect human life and health;” and

WHEREAS, pursuant to Health Code Section 3.09, no person shall allow a nuisance to exist or to be created in respect to any matter, thing, chattel or premises which he or she owns or controls; and

WHEREAS, pursuant to Section 2.6 of the New York State Sanitary Code and Section 11.03(e) of the Health Code, the Department is required conduct an investigation to determine the sources of outbreaks of infectious diseases such as COVID-19, and takes steps necessary to prevent further infection and spread; and

WHEREAS, pursuant to Section 3.01 of the Health Code, I am authorized to issue orders and take actions that I deem necessary for the health and safety of the City and its residents when urgent public health action is necessary to protect the public health against an existing threat and a public health emergency has been declared pursuant to such section; and

WHEREAS, Article 49 of the Health Code governs health and safety standards for public and non-public schools in New York City; and

WHEREAS, in-person instruction has been permitted to recommence by the State of New York after September 1, 2020 by Executive Order 202.60, provided that there is adherence to the [K-12 re-opening guidance](#) promulgated jointly by the State Department of Health and State Education Department; and

WHEREAS, such [re-opening guidelines](#) provide that (p.21 Part C) Responsible Parties identify clearly defined measures that will serve as warning signs that the level of COVID-19 transmission may be increasing in the school setting beyond an acceptable level, and in such zip codes set forth below such metrics have been met;

NOW THEREFORE I, Dave A. Chokshi, MD, MSc, Commissioner of Health and Mental Hygiene, finding that a public health emergency within New York City continues, and that it is necessary for the health and safety of the City and its residents, do hereby exercise the power of the Board of Health to prevent, mitigate, control and abate the current emergency, and, consistent with the re-opening guidelines of the State Department of Health, hereby order that schools in the following zip codes shall comply with the provisions of this Order: 11204, 11210, 11219, 11223, 11229, 11230, 11415, and 11691. Furthermore, I may, upon determining that outbreaks have occurred in additional neighborhoods, designate in writing additional zip codes subject to this Order, and shall make a list of such affected zip codes publicly available on the website of the Department. Such list may be updated from time to time.

All non-public schools in the affected zip codes must comply with the following additional requirements:

- All individuals on the school premises must remain at least 6 feet apart at all times, except: in emergencies or when doing so would create a safety hazard; or when physical barriers are put in place between individuals in accordance with New York State guidance for in-person instruction at pre-k to Grade 12 schools during the COVID-19 public health emergency; and
- Face coverings are required in school buildings at all times, except for individuals who cannot wear a face covering because of developmental, medical or age reasons;
- Coordinating with the Department and the Test + Trace Corps to identify, isolate and prevent the spread of COVID-19; and
- Following the protocols established by the Department for opening and closing of classrooms and schools if a student or staff is confirmed with COVID-19, and excluding students and staff who have symptoms of or are confirmed with COVID-19 or have been identified as a close contact to someone with COVID-19.

Students, teachers and staff having close contact with confirmed cases of COVID-19 must quarantine for 14 days from such contact, in accordance with the New York State Department of Health's guidelines for precautionary quarantine.

This Order shall be effective immediately and remain in effect through the end of the 2020-2021 school year, including any summer school sessions during 2021, or such earlier time as I may indicate, subject to the authority of the Board of Health to continue or rescind, alter or modify this Order pursuant to Section 3.01 of the Health Code.

Failure to comply with an Order of the Commissioner is a violation of the Health Code and a misdemeanor for which you may be subject to civil and criminal penalties, including fines, forfeitures and imprisonment.

If you have any questions about how to comply with this Order, please telephone the Department at 718-483-0970.

If you wish to object to this Order, please write, fax or email the Office of the General Counsel, New York City Department of Health and Mental Hygiene, 42-09 28th Street, Long Island City, NY 11101-4132; OGC@health.nyc.gov; fax 347-396-6087, providing a statement of the reasons for your objection to the Order.

Dated: 9/28/20



Dave A. Chokshi, M.D., MSc
Commissioner

EXHIBIT G
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)



OCTOBER 5, 2020 Albany, NY

Video, Audio, Photos & Rush Transcript: Governor Cuomo Updates New Yorkers on State's Progress During COVID-19 Pandemic

Directs Schools in Hot Spot Zip Codes Identified by New York City to Temporarily Close In-Person Learning Beginning Tomorrow

Governor to Meet with Communities in Brooklyn, Queens and Rockland, Orange and Nassau Counties to Discuss Religious Gatherings

New York State to Oversee Enforcement in Statewide Hot Spot Clusters

20 ZIP Codes in Areas with Hot Spots - Brooklyn, Queens and Rockland and Orange Counties - Have 5.5 Percent Positivity Rate

Statewide Positivity Excluding Hot Spot ZIP Codes is 1.01 Percent; 1.22 Percent with Hotspot ZIP Codes Included

8 COVID-19 Deaths in New York State Yesterday

SLA and State Police Task Force Visits 587 Establishments; Observes 0 Establishments Not in Compliance

Governor Cuomo: “On schools, my number one concern has always been schools. I said to the parents of this state, I will not send—I will not allow your child to be sent to any school that I would not send my child, period. And you have my personal word on that. I’ve spoken to thousands of parents who have called up and said, I’m worried about sending my child to school. I said, I won’t allow a school to open that I wouldn’t send my child to. That’s my test.”

Cuomo: “If we’re going to keep religious institutions open, it can only be with two conditions. One, the community must agree, whether it’s the Jewish community, whether we’re talking about Black churches, whether we’re talking about Roman Catholic churches, the religious community has to agree to the rules and they have to agree that they are going to follow the rules. And they have to agree that they are going to be a full partner in the enforcement of the rules. That’s condition one. I’m going to meet with members of the ultra-Orthodox community tomorrow. I want to have that conversation directly, myself. This cannot happen again. If you do not agree to enforce the rules, then we’ll close the institutions down. I am prepared to do that. Second, after we receive the agreement, and agreement is only as good as the enforcement.”

Earlier today, Governor Andrew M. Cuomo updated New Yorkers on the state's progress during the COVID-19 pandemic and directed schools in hot spot ZIP codes identified by New York City to temporarily close in-person learning beginning tomorrow. The governor noted that New York State needs more data on the threat COVID-19 poses in those schools. Governor Cuomo also announced he will meet with the communities in Brooklyn, Queens, and Rockland, Orange and Nassau Counties to address religious gatherings. New York State will oversee enforcement in statewide hot spot clusters. Yesterday, Governor Cuomo announced that New York State is deploying personnel to directly enforce state guidance

within the hot spot ZIP codes. New York State will review the data in affected ZIP codes, gather more school data and determine criteria for reopening the schools.

In the top 20 ZIP codes in areas that have seen recent outbreaks - Brooklyn, Queens and Rockland and Orange Counties - 3,473 tests were conducted, yielding 193 positives or a 5.5 percent positivity rate. In the remainder of the state, 72,931 tests were conducted yielding 740 positives or a 1.01 percent positivity rate.

VIDEO of the Governor's remarks is available on YouTube [here](#) and in TV quality (h.264, mp4) format [here](#).

AUDIO of today's remarks is available [here](#).

PHOTOS are available on the Governor's Flickr [page](#).

A rush transcript of today's remarks is available below:

Good morning. Sorry for the delay. I pride myself on my punctuality, but some of the issues that we are going to discuss today we were just working on resolving, and that's the reason for the delay. From my far right, Mr. Gareth Rhodes. To his left, Dr. James Malatras. To my right, Melissa DeRosa, secretary to the governor. To my left, Dr. Howard Zucker, health commissioner extraordinaire. To his left, the ever smiling and jovial Rob Mujica, budget director. Thank you and again I apologize for being late.

Today is day 219, but it feels like just yesterday that this started, doesn't it? Have that same freshness and energy. Groundhog Day, remember that movie, Groundhog Day? These are the numbers for today. Again, we're looking at two different universes now. It's a little different than the past. We're looking at the statewide numbers and we are hyper focused on what we call hot spots. Where was the first hot spot in the United States of America? Trivia contest. Yay. You win. Three questions today. We had the first hot spot cluster in the United States. New Rochelle, New York. So we know this well.

We're oversampling in the hot spots and we're testing all across the state. The 20 hot spot zip codes, 5.5 percent, okay. Our hot spot zip codes are where many states are right now. And you'll see it in some of the numbers. Statewide positivity rate is 1.01 outside of the hot spot zip

codes. 1 percent is an unbelievably low infection rate. And as we're going into the fall, I believe it's going to be practically unsustainable, but it's remarkable that we're that low right now. If you roll in the hot spot ZIP codes, which now distorts the balance of the sample, it's 1.2. Number of deaths, 8. They are in our thoughts and prayers. Statewide hospitalizations, 636, ICU, 140, statewide intubations, 70.

Context first. We're coming into the fall. We have been told since early March, beware the fall, beware the fall. Weather gets colder, more people move indoors, flu season, schools open. Schools opening are almost a predictor of increased infection rate. Colleges opening, turned out to be more problematic than we thought, colleges opening. SUNY's doing a great job. That's why Dr. Jim Malatras is here today. If SUNY was not doing a great job, Dr. Jim Malatras would not be here today. That's how you know that. So the fall is a challenging period, as we know. And we expect to see the infection rate go up in the fall.

Context, all over the globe, the infection rate is going up. All over the globe. Countries that were doing remarkably well are now seeing spikes. USA overall is going up, Israel has a real problem, EU has a real problem, Canada has a problem, Argentina has a problem, the UK has a problem. And the UK, remember, they were up, they were down, they're up again. You look across the nation, states are all going up. So context, beware the fall, has been right.

New York is the outlier in all of these international and national trajectories. We are the exception to the rule. This is the one situation where we want to be the exception to the rule, right. Other states up, other countries up. That in and of itself is a complicating factor, because New York State is not hermetically sealed. We put a quarantine in effect. I know, but people still drive in, it's still water through a screen, people are still coming in on flights, international flights, people in Texas are coming in, people in California are coming in, people in New Jersey are coming in, so that's an added problem for us. If you look at the hot spot infection rate yesterday, Western New York is a hot spot. Yesterday was a good day, 1.2 percent. Broome has a hot spot. Came out of a pub restaurant. But Broome has a hot spot. Orange County, Rockland County, Brooklyn, Nassau could be on there with a hot spot in one section of Nassau. These clusters have to be attacked. Picture that map as a map of dry grass, and picture those hot spots as embers within the field of dry grass, okay? That's how I think of it.

the only course is to run to those embers and stamp them out immediately and dramatically. That's why I don't sleep at night.

So you have to attack the clusters. How do you attack the clusters? Testing, testing, testing, testing. Get the facts. Follow the data. Contact tracing off the testing. Testing in itself doesn't tell you anything, just that you have a problem. Contact tracing helps you solve the problem.

And enforcement. Enforcement. Oh, that's so harsh, enforcement. Yeah. It's not. Enforcement is kind. You know why? Because enforcement saves lives. That's what enforcement does. Lack of enforcement is not kind. I believe that. I believe that and I have said that from day one and the State has been bullish on this and it has worked. It's worked. It's not like I'm putting forth a proposition. Enforcement works. Any rule is only as good as the enforcement. Don't speed. Are you enforcing it? Don't litter. Are you enforcing it? Any rule is only as good as the enforcement, especially when it's a rule that people don't want to follow. Seat belts – only as good as you enforce them. Don't text and drive – only as good as you enforce it. I say to people when I see them texting and driving, I say to them, I pull up, I roll down my window, I say hi, you are texting and driving, that is a violation of the law. I know because I passed that law. It's only as good as the enforcement.

We're New York Tough. What's within tough? Smart – follow the data, follow the analytics. Disciplined – do the enforcement, stick to the rules, stick to what's working. I've said this 100 times but at this point in my life I've said everything 100 times. Too many local governments are not doing enforcement. Warnings are not enforcement. "Put a mask on or I will ticket you" is not enforcement. "Store owner, you're not supposed to have this many people in your store" – we are past that. Everybody knows the rules. You don't have to pull over a car today and say, you know you're not supposed to text and drive. They know that. They know that. What you wind up saying is, I got away with it. We've been saying you get away with it for too long and we have lived through this repeatedly.

This was bars and restaurants. How many times did I come before you and say bars and restaurants are a problem. We have gatherings in front of bars and restaurants. Local governments have to do the enforcement. Week after week after week and it got worse and it got worse and it got worse. I then said forget it, I give up, the State government will do bars and restaurants and we put together a task force, we did over 1,000 violations, and you know

what? Compliance with bars and restaurants is markedly better than it has been. When was the last time any of you wrote a story about bars and restaurants and gatherings in front of bars and restaurants? Why? Because the owners know they'll lose their license. Oh, that's tough. No. We saved lives. I believe that. We saved lives.

New York City has clusters, Queens, Brooklyn. We also have clusters akin to this in Orange, Rockland, a little bit in Nassau. I just got off the telephone with Mayor de Blasio, Comptroller Stringer, Council Speaker Johnson, UFD President Mike Mulgrew. We had a very good conversation. It was a collaborative, positive conversation. It's a complex situation, worked on a number of levels, a number of issues and we talked through them. We have clusters where the viral infection rate is higher, about 3 percent. Where does the virus mainly transmit? Dr. Zucker was on the phone we asked him that question. Schools, which are also the place where different communities come together. So, my child goes to a private school, your child goes to a public school, but our children are on the same hockey team or on the same soccer team or they play together in the playground. Schools can be locations of transmissions. Religious gatherings, especially in these communities, New Rochelle, first hot spot, was an Orthodox Jewish man who went to a temple, hundreds of people, and a wedding, hundreds of people. Orthodox Jewish gatherings often are very, very large and we've seen what one person can do in a group. Look at this Rose Garden with the President, by the way. Outdoor event, oh, those are safe, outdoor events. No, no, no. Safer than indoor. Nobody ever said safe. Safer than indoor. And look at that growing list of people at a presidential Rose Garden event who are theoretically tested before they came in. How many people could have been infected? One, two? And look at the spread in the Rose Garden. You know what happens here. You've seen it over and over again. Third, public spaces. These are basically in priority order. Fourth are businesses where consumers may interact but that is way down on the list relatively. And the key to all of these areas is enforcement. All of them. We have rules for all of these areas. We have rules for all these areas in place now. Well then how's it increasing? Because people are not following the rules. That's why.

On schools, my number one concern has always been schools. I said to the parents of this state, I will not send—I will not allow your child to be sent to any school that I would not send my child, period. And you have my personal word on that. I've spoken to thousands of parents who have called up and said, I'm worried about sending my child to school. I said, I won't

allow a school to open that I wouldn't send my child to. That's my test. On the schools in these areas, not all of them have been tested. So we don't have data on all of the schools in these hotspot clusters. That troubles me. And on the telephone call we were all basically in agreement. They have sampled some schools in the clusters, but not all the schools. And these are the hotspot clusters, right? So if you have to prioritize testing, you want to go to these schools first because you know they are in hotspot clusters. So some schools in those clusters we have not yet done testing on. Better safe than sorry. I would not send my child to a school in a hotspot cluster that has not been tested. Where I did not have proof that the infection rate was low in that school. I would not send my child. I am not going to recommend or allow any New York City family to send their child to a school that I wouldn't send my child. We're going to close the schools in those areas tomorrow. And that's that.

Religious gatherings—the city's proposal does not close religious institutions. We know religious institutions have been a problem. We know mass gatherings are the superspreader events. We know there have been mass gatherings going on in concert with religious institutions in these communities for weeks. For weeks. I don't mean little violations. You're only supposed to have 50, they had 55. I'm talking about you're only supposed to have 50 outdoors, they had 1,000. These are pictures from the past couple of weeks. And these are just emblematic. You've all seen pictures like this for weeks. What did you think was going to happen? What did you think was going to happen? Religious institutions are mass gatherings and raise the greatest potential. It's schools and it's large mass gatherings. Schools, frankly, because they're students and that's where our heart goes, our priority goes. But in terms of numbers, it's large gatherings and large religious gatherings are large gatherings. These have been going on for weeks. You don't see masks. And you see clear violations of social distancing. When were these pictures from?

Gareth Rhodes: The one on the right is more recent than the one on the left.

Governor Cuomo: Okay, but they're in the recent past. So this has been going on for weeks. We've been talking about it for weeks. If we're going to keep religious institutions open, it can only be with two conditions. One, the community must agree, whether it's the Jewish community, whether we're talking about Black churches, whether we're talking about Roman Catholic churches, the religious community has to agree to the rules and they have to agree

that they are going to follow the rules. And they have to agree that they are going to be a full partner in the enforcement of the rules. That's condition one. I'm going to meet with members of the ultra-Orthodox community tomorrow. I want to have that conversation directly, myself. This cannot happen again. If you do not agree to enforce the rules, then we'll close the institutions down. I am prepared to do that. Second, after we receive the agreement, and agreement is only as good as the enforcement.

We have to have real enforcement. In these clusters and the other statewide clusters, the enforcement will help the community. If the rule is no more than 50 percent of the people in a Black church, I want someone at that door when 50 percent enter the church, a person there who says to the pastor, you agree to follow the rules. That's 50 percent. That's it, or we close it down. It does not work without enforcement, but both of those conditions have to be in place. And if I do not have the agreement from the religious community directly as a starting point then we will close down the religious institutions. If they do agree to do it in partnership, then I want a real enforcement capacity. We're not going to make the same mistake twice.

Tomorrow I'm going to meet with the larger congregations. New York City, Rockland, Orange, Nassau and have that conversation. That's step one. If we get past step one, then we need enforcement in place. Enforcement is enforced. I've said this to you I have this conversation with local officials all day long. "Well we issue warnings." That's not enforcement. "Well, we do public education." That's not enforcement. There is no person in the state of New York who needs you to tell them at this point, "you must wear a mask." They know that they must wear a mask. There is no need for public education. Find me the person who says, "I never heard that. Really, you have to wear a mask?" Find me the person in the state who says that. Enforcement is enforcement, okay? New York City only did 26 enforcement actions. Enforcement is, "here's a violation." New York City deployed 1,000 people for three days, 1,000 people for three days is what- 24,000 personnel hours. 24,000 personal hours you only did 26 enforcement actions? That's not enforcement.

We have to be more aggressive. I understand that it's impolitic. I understand the sensitivity in the community now. I also understand that you will see people die if we don't do more enforcement. I also understand that we have learned this experience before. This is the bars and restaurants story. Week after week after week we have to do the enforcement; nobody's

doing the enforcement. Week after week after week nothing changes; the state took it over: I did 1,200 enforcement action; 228 immediate license revocations, just on bars and restaurants. Now, was I happy about doing 1,200 enforcement actions? No. Immediate license revocation is very difficult. That business basically closes. People lose their jobs. You don't want to do this, but life has options, my friends. You don't do this, the virus spreads, and people die. You tell me which is the nice and kind and responsible course of conduct? 1,200 enforcement actions just on bars and restaurants: that's enforcement.

The state is going to take over the enforcement oversight in all the hotspot clusters, okay? Local governments will need to provide us with personnel, but the state will take over the enforcement with the local personnel. I do not have enough state personnel to supplement every local police department in the state. To give you an idea, we have about 5,000 state troopers; there are about 35,000 NYPD. Most of this enforcement is also going to be done by Health Department officials, other agency-type officials. I said from day one for the local officials, I understand this is all tough stuff and politicians like to make people happy, as a general rule. I like to make people happy as a general rule too. I just have a superseding rule, which is I like to keep people alive. I'd rather you be alive and angry at me, then have people happy with me. I'm elected to do a job and be responsible and that's what I want to do. I said from day one, blame me. If you have to revoke a bar owners license? Blame me. We have to close a temple because it's over 50 percent? I'll do it. We have to close a Roman Catholic Church? I'll do it. I had closed the Saint Patrick's Day parade. I did it. But none of these rules are going to make a darn, if you don't have the enforcement.

Another issue that came up on the phone which is right: targeting by zip codes is imperfect. The virus doesn't travel by zip code. Neighborhoods and communities aren't organized by zip codes. Zip codes can be arbitrary and can leave out some communities that are infected. Zip codes can include communities that have a low infection rate. This is a zip code in Brooklyn. The white areas are inside the zip code, but we have the infection rate by address. You have areas in that zip code that aren't infected, so the ZIP code as a template is rough justice, but only rough justice and we can refine that. It takes some review and analysis, but look at the actual cases that you have again by address and make sure you're including the relevant zone, not just the ZIP code. If you have to go a little bigger, you go a little bigger. If you have to, if you don't have an infection rate in certain communities, don't include those infection

rates, so the ZIP codes as a starting place, but we then want to have a team of epidemiologists and demographics people actually look at the maps and where the infection rate is and make sure we're drawing the right circle, or the right borders. And the Comptroller raised that point, and it's a good point, and the health officials agree.

When we did New Rochelle, we did a circle. Every other state, every other country, does a political subdivision: a county, a city, a town. So, the ZIP codes are not the best template to use and we want to refine that template. For example, we're closing schools in ZIP codes, but the school district is different than the ZIP code — so just because a school is located in that ZIP code doesn't mean the students come from that ZIP code. The catchment area can go opposite direction from the ZIP code, but right now that's the best we have with the New York City data but we're going to refine this.

Non-essential businesses, public spaces — remember it's mass gatherings. Public spaces, schools should close, but we need to have the right template designed before we can do that with full accuracy. The only action we're taking today on this data — we are using the ZIP codes to close those schools tomorrow. If we expand the regions and that then includes other schools, we'll then notify people as soon as we know. But for today, all we have is the ZIP code data, so it's the schools in those ZIP codes, and as we refine it, we'll let you know.

So in total, schools close tomorrow. I'm going to be meeting with the Orthodox community tomorrow, see if they will agree to live and abide by the rules and advocate compliance. If the rabbi advocates compliance, that would be a very positive start. If the communities don't agree with the rules, which is possible — I had some conversations where some religious leaders believe they have herd immunity, which is not true. Some people believe, that, followed politics, and think that masks are ineffective and this is all a hoax. That's not true. But if they don't agree, then the state will take action. If they do agree and we have the ability to enforce, then we will go with reduced guidance: 50 percent rules, primarily outdoors, etc. We're going to do statewide enforcement, state supervised with local resources, but enforcement has to be enforcement. We need better templates, geographic templates, than ZIP codes. We also need better data on these schools in these hotspot ZIP codes, more testing, faster testing so we find out exactly where we are, and we need to establish criteria

for reopening. When do the areas reopen? What testing data, what percent over what period of time? That has to be established.

So, in closing, New York City is not unique. We have this all across the state. Again, we started with the first hotspot and it's going to continue. It is the way of the world; it's the way this virus moves. It starts in a cluster; it always starts in a cluster wherever, and the question always becomes, "can you stop it in the cluster?" Can you stamp out the embers before it's a fire out of control. That's always the question. That was the question in Wuhan, China. Can you get to Wuhan and stamp it out before it spread? That was the question in New Rochelle and we did stamp it out in New Rochelle by the way, and every state is dealing with it. But's a statewide issue. It's testing and it's enforcement. That's what we're down to. We're New York tough, smart, disciplined. Just to reiterate, the fall is perilous. We have to stay vigilant.

When we talk about 1 percent, I understand that it is a hyper-ambitious goal. You have to remember we were at a 20 percent infection rate at one time and I understand that we are surrounded by higher infection rates. New Jersey is 2.1; they were 3 last week, OK? Connecticut is 1.3; they were 1.5 and Connecticut has always been a relatively easier situation than New York. I'm envious of my friend Governor Ned Lamont. Pennsylvania's at 7.9 percent. We have people coming in and out of here every day from these states. We have people flying in from other countries. So, 1 percent. Hyper ambitious, unrealistic. Keep the bar high, raise the goal, and we do the best we can. But, I'm also realistic and these are the facts that surround us. That's why right now, you take out our hot spots, we have one of the lowest infection rates in the United States of America, and that is the gold standard, and that's what we want to try to achieve, even if it is not fully realistic. But, New Yorkers have done an amazing job, highest infection rate at one time, lowest in the nation. God bless New Yorkers, and I want to make sure as governor I'm doing everything I can to honor and fulfill their sacrifice and their toughness and their love for each other, and we're doing that.

Contact the Governor's Press Office



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EXHIBIT H
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)



OCTOBER 6, 2020 Albany, NY

Video, Audio, Photos & Rush Transcript: Governor Cuomo Announces New Cluster Action Initiative

Initiative Developed in Consultation with Leading National Public Health Experts—Dr. Noam Ross of EcoHealth Alliance, Dr. Michael Osterholm of the University of Minnesota and Former CDC Director Dr. Tom Frieden

New Initiative Maps Clusters by Density of Cases to Address COVID Hot Spots in Brooklyn, Queens, and Broome, Orange and Rockland Counties

Fines for Sponsors of Mass Gatherings Increased to \$15,000

New Rules and Restrictions in Effect for Minimum of 14 Days

Governor Cuomo: "First, identify the cluster. You can identify the cluster because we do so much testing and we have so much data. We can tell you where there is a cluster by the actual number of cases. We have the addresses of people who are COVID-positive. So we have mapping software where you can see exactly where the cluster is. That's the highest density of cases. That's where you have to take the most dramatic action."

Cuomo: "We're increasing the fines for sponsors of mass gatherings to \$15,000. We are going to be providing the local governments with the maps that we did in their areas. We'll be

consulting with them. These were done specifically from the actual case numbers themselves. If there's some peculiarity, local governments have a comment, we'll do that today. The rules can go into effect as soon as tomorrow, that's up to the local government, but no later than Friday. If local government says we want time to get adjusted, fine. Today is Tuesday, get adjusted no later than Friday."

Earlier today, Governor Andrew M. Cuomo announced a new cluster action initiative to address COVID-19 hot spots that have cropped up in Brooklyn, Queens, and Broome, Orange and Rockland Counties. Working with the top public health experts, New York State developed a science-based approach to attack these clusters and stop any further spread of the virus, including new rules and restrictions directly targeted to areas with the highest concentration of COVID cases and the surrounding communities. The new rules will be in effect for a minimum of 14 days.

The plan was developed in consultation with national public health experts including Dr. Noam Ross of EcoHealth Alliance, Dr. Michael Osterholm of the University of Minnesota and former CDC Director Dr. Tom Frieden.

VIDEO of the Governor's remarks is available on YouTube [here](#) and in TV quality (h.264, mp4) format [here](#).

AUDIO of today's remarks is available [here](#).

PHOTOS are available on the Governor's Flickr [page](#).

A rush transcript of the Governor's remarks is available below:

Good afternoon. To my right, we have the esteemed secretary to the governor Melissa DeRosa. To her left, the esteemed budget director Robert Mujica. Thank you all for being here. Appropriately social distanced.

Today is day 220, believe it or not. The fall is here. What happens in the fall? Leaves come down, Jimmy Vielkind spends a lot of time with the foliage up north. What else happens in the

fall? The virus goes up. The leaves come down, the virus goes up. They've been talking about this for a long time. They predicted this and on this prediction they happen to be right. You see the virus increasing across the country, you see it increasing across the globe, you see countries that had it under control are now struggling again.

In New York, statewide, we are doing very well on the numbers. We have what I call a COVID cluster problem. But a cluster problem is serious because a cluster problem can grow. The virus spreads in mass gatherings. We know this from our own experience, from what we've seen, and from what every expert tells us, right. The outbreaks, which is when the virus is spreading out of control, it starts with a mass gathering and then it expands from there, especially indoors. We've seen it in colleges, state colleges, private colleges, you have that congregate mass gathering indoors or frequenting a bar in the case of colleges, and it take off. We've seen it in factory settings around the country, we've seen it in produce plants, apple plants, in New York. We've seen it in a single restaurant, can be a mass gathering. We've seen it at July 4th parties, we've seen it at Labor Day parties. We've seen it in the Rose Garden. That was a mass gathering, outdoor, by the way, and we've seen it. You see that growing list of all the people who were infected from that mass gathering.

We see it in places of worship. We've seen one church infect people, we've seen synagogues infect people, we've seen mosques infect people. We had the first hot spot cluster in the United States of America. New Rochelle, a super spreader who attended a temple service and then attended a wedding, and that was it. We were off to the races. So, it's to be taken very seriously. A mass gathering causes infections. Infections cause a cluster. A cluster causes community spread. That is the natural evolution of things unless we intervene and we stop the cycle. If you just let the cycle run, that is what's going to happen.

We see clusters now across the state, colleges upstate. We have a cluster in Binghamton, Orange Rockland, Queens, Brooklyn, Nassau. The cluster is just that, it's a cluster of cases, a high density of cases. And it seeps, it grows from that cluster almost in concentric circles. Drop a pebble into the pond, pebble goes in, then there's one ring, two rings, three rings, and the rings continue across the pond. That's how the virus spreads. When you see the cluster, you have to stop it at that point. What's our strategy? Crush the cluster and stop the spread.

And we're announcing a special initiative to do just that, the Cluster Action Initiative. Catchy name.

Step one, you take the most dramatic action within the cluster itself, where you have the highest density of cases. Understanding that the people in that cluster interface with the surrounding communities, take additional action in the communities surrounding the cluster, and then on a precautionary measure, take action in the communities that are out line that area, so three steps.

First, identify the cluster. You can identify the cluster because we do so much testing and we have so much data. We can tell you where there is a cluster by the actual number of cases. We have the addresses of people who are COVID-positive. So we have mapping software where you can see exactly where the cluster is. That's the highest density of cases. That's where you have to take the most dramatic action. The surrounding area is where that cluster is going to seep. Why? Because that's where people interact in the grocery store. That's where they interact at the bus stop. That's where they interact in the local recreational areas. So cluster, the area around the cluster, and then as a precautionary measure, the area around that's. That's how you attack a cluster. Most intense action on the cluster itself and then precautionary action as you pull back.

Clusters, all of these areas, you can look at them exactly by the cases. It's not by zip code, it's not by census tract, it's not by any political metric, it's only by the number of cases. So for example, Brooklyn New York - we have one area. This is an actual map of Brooklyn. The cluster is the red area. That is the area in, this is basically south Brooklyn, that has the highest number of cases by actual data. The surrounding area, orange, that is the second ring. That's the warning area because the people who are in that cluster, they're going to the same store, they're going to the same church, they're going to the same bus stop as people in that surrounding area. These are there are no walls here. The third area is the yellowish area around the perimeter from that line straight line down. That we call a precautionary area because they may very well also be coming in contact with the people in the cluster. Or, the people in the middle of that cluster may have infected somebody in the orange zone who may be in contact with someone in the yellow zone. It goes red is the cluster, orange is surrounding the cluster, yellow is the periphery. So that's the actual south Brooklyn map.

Queens, there are two areas that will be mapped just the way Brooklyn is mapped but same concept. There's a central cluster, there's a surrounding area and there's a precautionary area surrounding that. Two smaller areas in Queens. The Brooklyn area is larger than either of the two Queens areas. Binghamton we have a cluster.

Binghamton we're declaring a yellow zone which is the precautionary zone which is a less intense action plan than in a red zone. Why? Because there's just fewer number of cases in Binghamton. The density is less, the cluster is less, but it still requires precaution.

Orange County, we have an intense cluster and then what we call a precautionary zone around that cluster.

Rockland County, same thing. We have an intense cluster and then we're establishing a precautionary zone around that cluster.

These are relatively small areas geographically. Maybe a cluster is one mile in diameter. Maybe with the orange warning area it's a mile and a half. Maybe with the precaution area it's about 2 miles. These are geographically circumscribed, relatively small but that's why they're clusters. The trick is to keep it small. Keep the infection from spreading. Small, but intense targeted efforts in that area. We have new rules for red, orange or yellow communities.

The red, which is the most impacted area, houses of worship will be 25 percent capacity up to 10 people maximum. If it's a church or a mosque or a temple, there will be a maximum of 25 percent capacity or 10 people. No mass gatherings, only essential businesses open, only take out dining and schools are closed.

In the orange areas - that's the second ring - houses of worship 33 percent capacity, 25 people maximum. Mass gatherings, ten people maximum, indoor or outdoor. Businesses, we closed high-risk, non-essential businesses. High risk are defined businesses like gyms, personal care, et cetera. Dining, no indoor dining, outdoor dining only. Four people to a table.

Yellow, which is the precautionary zone, 50 percent capacity in a house of worship. Mass gatherings, 25 people. Businesses are open; dining indoor and outdoor, but 4 people maximum per table. Also, the schools in yellow areas, public or private, must do mandatory weekly testing.

The students are people who are very likely to interact with people within that community. We saw this in New Rochelle. All the kids go to different schools, I know, but they meet at the playground or they're on the little league team or they're on the hockey team or they went to somebody's birthday party and they interacted. The schools are important because you will very often see the schools be a place of transmission. If two students interact at a birthday party on a Friday night and then go to school, they then bring it home to their parents and now we're off to the races again.

We're increasing the fines for sponsors of mass gatherings to \$15,000. We are going to be providing the local governments with the maps that we did in their areas. We'll be consulting with them. These were done specifically from the actual case numbers themselves. If there's some peculiarity, local governments have a comment, we'll do that today. The rules can go into effect as soon as tomorrow, that's up to the local government, but no later than Friday. If local government says we want time to get adjusted, fine. Today is Tuesday, get adjusted no later than Friday.

Testing for schools in the yellow zones starts next week. I am more and more concerned about schools with the more experience we have. The more we get into this the more important I think it is that schools do random testing. Well, students are young and they're resilient. First of all, we don't really know that. What do we know about this virus? And not only do you have young people in schools, you have teachers. We all think we're young, I think I'm young, you have teachers and I want to make sure we're protecting all lives. So the schools in those yellow zones must do weekly testing. The Department of Health will set a sample number. We want to make sure it's statistically representative and they'll set that sample by Friday. If a school needs additional testing equipment, they should contact us - we can to help them. If they want to do pool testing, they should contact us, we can help them. These rules will be in effect for 14 days, and then we'll see where we are and we'll see the numbers and we'll adjust from there.

We've gone through this evolving situation with some of the best people on the globe who have been advising us and I want to thank them very much for their help. Local governments most enforce the law. I know I've said this several times. But we can sit here all day long and come up with laws and rules - they are only as good as their enforcement. And a lack of

enforcement has contributed to this problem. There is no one who say they didn't see this coming. We've had concerts in the Hamptons that should have never happened. We've had bars that have attracted crowds over and over again that should have never happened. We've had college parties that have happened offsite that should have never happened. We have had religious gatherings that have been circulated on social media for weeks and action was not taken. There can be no surprise - the rules are only as good as their enforcement. "Well we have COVID fatigue. We're tired of wearing masks." COVID isn't tired. The virus isn't tired. The virus - still energetic to strong enough to kill you. It's no time to be fatigued. We don't have the luxury of fatigue.

And I understand it's a politically difficult situations - I've tried everything with local governments. I said that I would fine local governments if failed to enforce the law because these are laws that they're enforcing. A law doesn't work if you're too incompetent or too politically frightened to enforce it, period, said A.J. Parkinson. I also said to local governments, "Blame me." I understand these are difficult acts to enforce. These are state laws. Blame me. I have no problem with that.

Moving forward, I'm not going to pass more laws that are not enforced. This is a government that is competent, this is a government that is capable, this is a government that has helped the people of the state through this horrendous situation. We'll continue to do it - we do it because we're effective, that's why. Local governments need to assign people to a State Enforcement Task Force, because I want to make sure that that is happening. New York City must provide 400 personnel to the New York State Task Force. I want to thank our government partners in this Cluster Initiative. I've spoken to many of them myself today. But we have in Binghamton, Broome, Jason Garner has been very helpful, Steven Neuhaus in Orange, Ed Day in Rockland County, we spoke through some issues today - I want to thank him very much for his cooperation. New York City we've been working with, Laura Curran in Nassau we've been working with. Together we're going to get this done - it's not easy. But we know where the cases and we know what we have to do.

So, government has to do its job, but individuals have to do their job also. And organizations have to do their job also. We're all citizens, and it's not government's job to catch you. It's citizen's obligation to do the right thing, right? You don't speed on the road, not just because

you're afraid to get a ticket, because you don't want to kill anyone. Right? You act responsibly with COVID because you want to protect yourself, you want to protect your family, you want to protect other people. And organizations have to do the same thing. I am informing all houses of worship today. Obviously these new rules are most impactful on houses of worship because this virus is not coming from nonessential businesses. That's not what this is about. It may be spread by nonessential business. It's not starting in schools; it may be spread by schools. This is about mass gatherings. And one of the prime places of mass gatherings are houses of worship. I understand it's a sensitive topic but that is the truth. You want to solve the problem? Acknowledged the problem. Deny the problem, look at a red herring, and then the problem gets worse. The problem is mass gatherings and houses of worship, colleges and some miscellaneous foolish behavior in bars, outdoor venues, etc.

I spoke to members of the Orthodox Jewish community today. I spoke to the leaders myself this morning. We had a very good conversation. These rules will apply to all houses of worship. Many of these communities have a large Orthodox population. I have been very close to the Orthodox community for many years. I understand the imposition this is going to place on them, and I said to them I need their cooperation. I need their partnership. They're very cohesive communities. And I asked for them to work with me to follow these guidelines and that was positively received. I said to them that I'm doing this for a very simple reason because I have such respect and love for the Orthodox community. I have been friends with them all my life and my father before me by the way. We go way back and it's out of respect and it's out of love and it's because I want to protect them. In Jewish teaching, one of the most precious principles is saving a life. To save a life. The Torah speaks about how certain religious obligations can be excused, if you are going to save a life. This is about saving a life. That's what this is. No large gatherings in synagogues to save a life. You look at where the infection rate is, you look at those clusters, people will die in those clusters and this is about protecting people and saving lives. And I felt very good about my conversation with the Orthodox community and I thank them for their help in their cooperation. Seasons change, circumstances change, and we change with it. That's what we do. This is not a New York State phenomenon. If you look at what's happening in our region of the country, New York is about 1.2 percent; Pennsylvania's up at about 8 percent; New Jersey is about 2.4 percent; Connecticut - which God bless Governor Ned Lamont has always had a lower incident rate than we have, but there are still facts in life: one plus one equals two; night follows day, the

world is round. These are facts, OK? There's another fact: if the rules are not complied with, and enforcement is not done, then the infection rate will increase. If the infection rate increases, we will be forced to close down. We know that. We've been here. This is déjà vu. So, let's do what we have to do in these clusters, let's save lives, and let's continue the economic advancement that we're making.

Today's specific numbers — top 20 zip codes — we're doing two types of testing now. We're testing in the hotspots and then we're doing the normal testing statewide. In the testing just in the hotspots, the infection rate is about 5.5. Statewide the testing is about 1.2. If you roll the hotspots into the state numbers, which now oversamples the hotspots, you're at 1.4 percent. Nine New Yorkers passed away. They're in our thoughts and prayers. 705 hospitalized, ICU 158, intubation 72.

We're going to do this the way we've done it all along because we are New York tough, smart united, disciplined, loving.

Last point is I'd like to make a comment about the President, what he's been saying. We wished him well when we heard about his diagnosis with COVID and we wished the First Lady well. We sent them a great New York special care package, and I hope he's back to 100 percent as quickly as possible. I think the President has an opportunity that he is missing and I think he has an opportunity to do a public service and I think he's right now doing the public a disservice. To say to the people of this country, "Look at me! Don't worry about COVID. Look how well I'm doing!" First of all, this is a funny disease. We hope you're doing well, but the disease still has not run its course and it's a little premature to say "I'm doing great," right? You're not really doing great until you test negative and then, by the way — there are people who test negative and have consequences that continue for weeks and months and months. This is a frightening virus. But the President is not analogous to the average person in this country, right? The average person gets COVID, they don't get flown by helicopter to Walter Reed Hospital, and have a team of 20 doctors, millions of dollars of medical talent attend to their needs, receive experimental drugs that haven't been available to the public and are administered just to the President under Compassionate Care, right? So, there's no analogy there. From the public service point of view, 210,000 people died. More people die in this country than countries around the world that were doing much worse than we were. From a

public service point of view, "Don't be afraid of COVID?" No. Be afraid of COVID. It can kill you. Don't be cavalier. You This is just more denial. This is where it started and you know, the President — God bless him — he tells you where he's going. We know that when COVID started, he knew how bad it was going to be and he just lied about it. We know that he had the White House memo done by Peter Navarro that said millions of people could get infected and he just lied about it. Woodward's book, he actually has him on tape saying, "I know how bad it's going to be, but I don't want to tell the American people." Yeah, that cost this nation, and that confusion cost this nation, many unnecessary lives and expense and pain and hardship. I was saying at that time, "Take it seriously." The President was saying when it started, "It's a hoax. It will be gone by Easter. It's going to disappear like a miracle." Yeah, none of that was true. None of it was true. He knew it wasn't true and it's not true now to say, "Don't be afraid of COVID."

Denial doesn't works. It never does in life. It never does. "I don't have a drinking problem. I don't have a substance abuse problem. I don't have a gambling problem." Denial never works. Acknowledge the problem: it's a frightening virus. Be smart, be careful. Don't hide under your bed. We're reopening, go about your business, but do it smartly and that's what the President should be saying.

Contact the Governor's Press Office



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EXHIBIT I
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

GUIDANCE FOR DETERMINING WHETHER A BUSINESS ENTERPRISE IS SUBJECT TO A WORKFORCE REDUCTION UNDER EXECUTIVE ORDER 202.68, RELATED TO NEW YORK'S CLUSTER ACTION INITIATIVE TO ADDRESS COVID-19 HOTSPOTS.

 esd.ny.gov/ny-cluster-action-initiative-guidance

October 7, 2020

- [Home](#) /
- New York's Cluster Action Initiative Guidance

FOR GUIDANCE RELATED TO DETERMINING WHETHER A BUSINESS ENTERPRISE IS SUBJECT TO A WORKFORCE REDUCTION UNDER EXECUTIVE ORDER 202.6, RELATED TO NEW YORK'S PAUSE, PLEASE CLICK [HERE](#).

Please review Frequently Asked Questions [here](#).

UPDATED: OCTOBER 7, 2020 AT 4:10 PM

This guidance is issued in accordance with New York Governor Andrew M. Cuomo's [Executive Order 202.68](#), which directs the Department of Health to determine areas in the State that require enhanced public health restrictions based upon cluster-based cases of COVID-19 at a level that compromises the State's containment of the virus. **Certain activities shall be restricted and any permitted activities, in the three zones (Red, Orange, Yellow) described below, shall be conducted in strict adherence to Department of Health guidance.**

This guidance is issued by the New York State Department of Economic Development d/b/a Empire State Development (ESD), in consultation with the Department of Health, and applies to each business or entity location individually and is intended to assist businesses in determining whether they are an essential business, if they are located in areas with designated cluster activity (*see* below for details). With respect to business or entities that operate or provide both essential and non-essential services, supplies or support, only those lines and/or business operations that are necessary to support the essential services, supplies, or support are exempt from the workforce reduction restrictions.

Where permitted to operate within the cluster action initiative, businesses and other entities must continue to follow the relevant industry-specific guidelines provided by Department of Health as available on the *New York Forward* [website](#) for their applicable operations and activities. Further, State and local governments, including municipalities

and authorities, are exempt from these essential business reductions, but may be subject to other provisions that restrict non-essential, in-person workforce and other operations under Executive Order 202.

On October 6, 2020, Governor Cuomo announced a new cluster action initiative to address COVID-19 hotspots that cropped up in various areas of New York. Working with the top public health experts, the State developed a science-based approach to contain these clusters and stop any further spread of the virus, including new rules and restrictions directly targeted to areas with the highest concentration of COVID cases and the surrounding communities. The new rules are in effect for a minimum of 14 days.

The initiative is composed of three steps:

- (1) Reduce in-person activities and interactions within the cluster, similar to *New York on PAUSE*;
- (2) Take action in the area surrounding the cluster to stop the spread; and
- (3) Take precautionary action in the outlying communities.

The initiative currently applies to clusters in the following areas:

- **Broome County (One Area, Yellow) - Click Here for Map**
- **Brooklyn (One Area, Red, Orange and Yellow) - Click Here for Map**
- **Orange County (One Area, Red and Yellow) - Click Here for Map**
- **Queens (Two Areas, Red, Orange and Yellow) - Click Here and Here for Maps**
- **Rockland County (One Area, Red and Yellow) - Click Here for Map**

Find COVID-19 Hot Spot Zones by Address

Red Zone – Cluster Itself

Activity restrictions include:

- No non-essential gatherings of any size
- Houses of worship are subject to a capacity limit of 25% of maximum occupancy or 10 people, whichever is fewer
- Restaurants and taverns must cease serving patrons food or beverage on-premises and may be open for takeout or delivery only
- Schools must close for in-person instruction, except as otherwise provided in Executive Order.

All non-essential businesses in the red zone, which do not meet the criteria below, shall reduce in-person workforce by 100%.

Orange Zone – Warning Zone

Activity restrictions include:

- Non-essential gatherings shall be limited to 10 people
- Houses of worship are subject to a capacity limit of the lesser of 33% of maximum occupancy or 25 people, whichever is fewer
- Restaurants and taverns must cease serving patrons food or beverage inside on-premises but may provide outdoor service, and may be open for takeout or delivery, provided that any one seated group or party must not exceed 4 people
- Schools must close for in-person instruction, except as otherwise provided in Executive Order.
- Certain non-essential businesses, for which there is a higher risk of transmission of the COVID-19 virus, shall reduce in-person workforce by 100%; such businesses include:
 - Gyms, fitness centers or classes
 - Hair salons and barbershops
 - All other personal care services including but not limited to spas, tattoo or piercing parlors, nail technicians and nail salons, cosmetologists, estheticians, the provision of laser hair removal and electrolysis

Yellow Zone – Precautionary Zone

Activity restrictions include:

- Non-essential gathers are limited to no more than 25 people
- Houses of worship are subject to a capacity limit of 50% of its maximum occupancy and shall adhere to Department of Health guidance
- Restaurants and taverns must limit any one seated group or party size to 4 people
- Schools shall adhere to applicable guidance issued by the Department of Health regarding mandatory testing of students and school personnel

For purposes of Executive Order 202.68, essential businesses allowed to remain open in any red zone(s) include:

1. Essential health care operations including

- research and laboratory services
- hospitals
- walk-in-care health clinics and facilities
- veterinary and livestock medical services

- senior/elder care
- medical wholesale and distribution
- home health care workers or aides for the elderly
- doctors and doctors' offices for both emergency and non-emergency appointments
- dentists and dental practices for both emergency and non-emergency appointments
- nursing homes, residential health care facilities, or congregate care facilities
- medical supplies and equipment manufacturers and providers
- licensed mental health providers
- licensed substance abuse treatment providers
- medical billing support personnel
- speech pathologists and speech therapy
- chiropractic services
- acupuncture
- physical therapy
- occupational therapy
- medically necessary massage therapy

2. Essential infrastructure including

- public and private utilities including but not limited to power generation, fuel supply, and transmission
- public water and wastewater
- telecommunications and data centers
- airlines/airports
- commercial shipping vessels/ports and seaports
- public and private transportation infrastructure such as bus, rail, for-hire vehicles, garages
- hotels, and other places of accommodation, including campgrounds.

Campgrounds must take precautions to ensure campers maintain appropriate social distancing and adhere to proper cleaning and disinfecting protocols, including but not limited to maintaining six feet of distance between campers, unless wearing an acceptable face covering, excluding persons from the same household who are camping together.

3. Essential manufacturing including

- food processing, manufacturing agents including all foods and beverages
- chemicals
- medical equipment/instruments
- pharmaceuticals
- sanitary products including personal care products regulated by the Food and Drug Administration (FDA)

- telecommunications
- microelectronics/semi-conductor
- food-producing agriculture/farms
- household paper products
- defense industry and the transportation infrastructure
- automobiles
- any parts or components necessary for essential products that are referenced within this guidance

4. Essential retail including

- grocery stores including all food and beverage stores
- pharmacies
- convenience stores
- farmer's markets
- gas stations
- restaurants/bars (but only for take-out/delivery)
- hardware, appliance, and building material stores
- pet food
- telecommunications to service existing customers and accounts
- all other retail may operate for curbside pick-up or delivery only with no customers allowed within the establishment and only one employee physically present to fulfill orders.

5. Essential services including

- 2020 Census operations and activities
- trash and recycling collection, processing, and disposal
- mail and shipping services
- laundromats and other clothing/fabric cleaning services
- building cleaning and maintenance
- child care services
- bicycle repair
- auto repair and maintenance
- automotive sales conducted remotely or electronically, with in-person vehicle showing, return, and delivery by appointment only
- warehouse/distribution and fulfillment
- funeral homes, crematoriums and cemeteries
- storage for essential businesses
- maintenance for the infrastructure of the facility or to maintain or safeguard materials or products therein

- animal shelters and animal care including dog walking, animal boarding and pet grooming but only to the extent necessary to ensure animal health
- food and non-food agriculture
- landscaping, gardening and horticulture
- designing, printing, publishing and signage companies to the extent that they support essential businesses or services
- remote instruction or streaming of classes from public or private schools or health/fitness centers; provided, however, that no in-person congregate classes are permitted

6. News media

7. Certain office-based work, including financial services and research

- banks or lending institution
- insurance
- payroll
- accounting
- services related to financial markets, except debt collection
- higher education research
- other office-based work not specified here may operate remotely

8. Providers of basic necessities to economically disadvantaged populations including

- homeless shelters and congregate care facilities
- food banks
- human services providers whose function includes the direct care of patients in state-licensed or funded voluntary programs; the care, protection, custody and oversight of individuals both in the community and in state-licensed residential facilities; those operating community shelters and other critical human services agencies providing direct care or support

9. Construction

Construction projects may continue, but any work that can be done remotely such as office-based work must proceed remotely, to the extent practicable. Employees/personnel who are not directly involved in in-person work at the business location/construction site are prohibited.

10. Defense

defense and national security-related operations supporting the U.S. Government or a contractor to the US government

11. Essential services necessary to maintain the safety, sanitation and essential operations of residences or other businesses including

- law enforcement, including corrections and community supervision
- fire prevention and response
- building code enforcement
- security, including security personnel for residential and commercial buildings
- emergency management and response, EMS and 911 dispatch
- building cleaners or janitors
- general and specialized maintenance whether employed by the entity directly or a vendor, including but not limited to heating, ventilation, and air conditioning (HVAC) and pool maintenance
- automotive repair
- cleaning, disinfection, and sanitation services
- occupational safety and health professionals
- residential and commercial moving services

12. Vendors that provide essential services or products, including logistics and technology support, child care and services including but not limited to:

- logistics
- technology support for online services
- child care programs and services
- government owned or leased buildings
- essential government services
- any personnel necessary for online or distance learning or classes delivered via remote means

13. Recreation

Local government are permitted to determine whether parks and other public spaces, as well as low-risk recreational activities may be open.

If open, appropriate social distancing of at least six feet among individuals must be abided, acceptable face coverings must be worn by individuals who are over the age of two and able to medically tolerate such coverings, and frequent cleaning/disinfection measures must be in place for hard surfaces and objects frequently touched by multiple people (e.g., handrails, benches).

14. Other professional services with extensive restrictions

- Lawyers may continue to perform all work necessary for any service so long as it is performed remotely.

Any in-person work presence shall be limited to work only in support of essential businesses or services; however, even work in support of an essential business or service should be conducted as remotely as possible.

- Real estate services shall be conducted remotely for all transactions, including but not limited to title searches, appraisals, permitting, inspections, and the recordation, legal, financial and other services necessary to complete a transfer of real property; provided, however, that any services and parts therein may be conducted in-person only to the extent legally necessary and in accordance with appropriate social distancing and cleaning/disinfecting protocols; and nothing within this provision should be construed to allow brokerage and branch offices to remain open to the general public (i.e. not clients).

EXHIBIT J
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)



OCTOBER 8, 2020 Albany, NY

Audio & Rush Transcript: Governor Cuomo Announces New Record High Number of COVID-19 Tests Reported

145,811 COVID-19 Test Results Reported to New York State Yesterday

20 ZIP Codes in Areas with Hot Spots - Brooklyn, Queens and Orange and Rockland Counties - Have 5.8 Percent Positivity Rate

Statewide Positivity Excluding Hot Spot ZIP Codes is 1.01 Percent; 1.26 Percent with Hot Spot ZIP Codes Included

10 COVID-19 Deaths in New York State Yesterday

SLA and State Police Task Force Visits 637 Establishments; Observes 7 Establishments Not in Compliance

Governor Cuomo: "The statewide infection rate is actually lower than it has been. The 1.01 is down from the past several weeks so don't confuse 6 percent of the population and say it's representative of the state because it wouldn't be a fact."

Cuomo: "There's always been opposition to some of these rules but the rules have been proven over time to work. This is still science and math at the end of the day."

Earlier today, Governor Andrew M. Cuomo announced that 145,811 COVID-19 diagnostic test results were reported to New York State yesterday—a new record high. In the top 20 ZIP codes in areas that have seen recent outbreaks - Brooklyn, Queens, and Rockland and Orange Counties - 7,349 tests were conducted, yielding 426 positives or a 5.8 percent positivity rate. In the remainder of the state, 138,462 tests were conducted yielding 1,410 positives or a 1.01 percent positivity rate.

AUDIO of today's remarks is available [here](#).

A rush transcript of the Governor's remarks is available below:

Good morning, guys, guys being gender-neutral. I'm joined by Melissa DeRosa, Dr. Zucker, Robert Mujica, Beth Garvey, Gareth Rhodes, want to thank them for all their hard work. Today is day 222. It's been 222 days for them every day. Every day.

Yesterday we did 145,000 tests. That is a new record for the State of New York and I want to make sure you understand the facts here because some of them have misreported because it's complicated.

145,000 tests, that's more tests than anyone is doing in the United States, a new high for us. The tests and the reason we're increasing tests is we're testing two universes - the normal statewide testing which is what we've been doing and then testing just in the hot spot zip codes.

The hot spot zip codes yesterday were 5.8. The rest of the state 1.01 which is very good and it's lower than it's been and it's down from 1.05, the day before.

Some have reported it that the state's infection rate is going up. That is not a fact. That is incorrect. The clusters are what we are watching. The clusters are 6 percent of the state population. I don't think there is any other state that does enough testing to even know what 6 percent of the population is doing. So we're focused on 6 percent of the population because we have enough data to know what 6 percent of the population are doing.

The statewide infection rate is actually lower than it has been. The 1.01 is down from the past several weeks so don't confuse 6 percent of the population and say it's representative of the

state because it wouldn't be a fact. You can say whatever you want to say. You do, but it's just not a fact.

Ten New Yorkers passed away yesterday. They're in our thoughts and prayers. 754 were hospitalized, 172 in ICU, 67 intubated. Regionally, Capital region is .5, that's very good; Central New York 1; Finger Lakes 0.3; Long Island 1, that's good for Long Island; Mid-Hudson 2.2, that's Orange and Rockland; Mohawk Valley 0.5, that's good; North Country 0.7, that's good. Southern Tier 1.3 - we have that Broome cluster there. Western New York 1.4 - we have to do better in Western New York. New York City, 1.2. New York City disproportionately in a sample is larger so the 1.2 is not good.

Six percent of the population in these clusters and we know exactly where they are. Binghamton was a peculiar situation and we are dealing with that. Otherwise Orange, Rockland, Queens, Brooklyn, we're dealing basically with five towns.

The Orthodox Jewish community, ultra-Orthodox Jewish community - what's happening there is the rules were never enforced in these communities. You know, remember the new rule if you will for the cluster in the red zone says the synagogue would have maximum of 10 people which is a minyan. At one time, we had rules that closed down houses of worship. Synagogues, churches, mosques, et cetera. Closing down is more dramatic than the current rule. Why are they so upset about the current rule when there was a previous rule that was more dramatic? Because the previous rules were never enforced, that's why.

That's why this rule seems harsh because they never followed the first rules and because they were never enforced. That's why I said to all of you 57 times the local governments have to enforce the rules. They were never enforced in these clusters.

Now, we didn't have enough testing and enough data to actually zero in on 6 percent of the population before. The longer you don't follow the rule, the higher the infection rate spreads and the more obvious it becomes. The only evidence is the fact that they never followed the first rules. You can't have more than 10, I'm very upset. What do you mean you're very upset? The rule was you couldn't have anybody. This rule is more liberal than the first rule.

That's what's happening here. Facts, common sense, self-preservation all makes the argument of follow the rule. They are now inarguable. A large part of the community is but, obviously,

there's some opposition. There's always been opposition to some of these rules but the rules have been proven over time to work. This is still science and math at the end of the day. Everybody can have a theory. Well this person thinks this and this person thinks this - okay. I think there are people who come down from Mars every night, but there are still facts. So follow the facts.

Also, remember, this is not the first time we've had this discussion with members of this community. We went through this just recently with the measles vaccine. Same argument. Same argument. Well, measles will spread through your community. Well, measles will infect the larger community. Same conversation.

Oh so just to include: The rules are inarguable. They will save lives. Jewish tradition, which - and you haven't had a Governor who's a greater friend of Israel and the Jewish community than I have. I've tried to purposefully do that. My father was very close to the Jewish community, I'm very close to the Jewish community. He was close to the Orthodox community, I'm close to the Orthodox community. Nobody has traveled more to Israel. Two of my brothers-in-law are Jewish. Nobody's fought anti-Semitism more aggressively than I have. First Governor in the nation to do BDS. That didn't stop the controversy over measles and it's not going to stop the controversy over this situation either.

The President of the United States says today New York is closing down parts of the economy because we want to hurt the economy until after his election. The President, once again, is disconnected from reality. The President, once again, is either lying, purposefully deceiving, or ignorant. We're not closing down anything, we're talking about 6 percent of the population. These are limitations, but again are limitations that are in many ways more liberal than past ones. "Well they want to hurt my economy until after my election." The rules are in place for two weeks. There's a calendar. The calendar on it has months and weeks and days. Two weeks is before his election, not after his election. So if he looks at a calendar, you find election day and you look at where we are today and you add 14 days, that's before his election date. That's a fact. So the President is wrong, which happens to be the norm.

Vice President called Senator Harris a "monster" yesterday. Now the Vice President has always tried to set himself up as a gentleman and a professional and above pettiness and ugliness. Well he was petty and he was ugly and he was insensitive yesterday. Senator Harris

is a monster? On what basis? What justification to use that word, a "monster"? This on a debate after the President made the first debate a disgusting mockery of crudeness and bullying and obnoxiousness. You'd think the Vice President would say, "Well I want to set a different tone, that's not my style and he calls the first African-American, Asian female to run for Vice President a monster. Disgusting. So for the President to call her a monster was just wrong.

Last point, Jim Dwyer passed away. Jim Dwyer, for those of you who don't know, he was a Pulitzer Prize-winning journalist. He was at Newday, he was at the Daily News, I've known him for I bet you 30 years. To say it's a great loss to journalism is to understate it. It's a great loss to journalism but he was just a great New Yorker and a powerful voice for many, many years. I did a video for tonight they have the Jack Newfield Lecture Series, named for Jack Newfield, and tonight they're talking about a book of Wayne Barrett's work, Without Compromise, a book where Wayne Barrett was one of the first reporters to look at Donald Trump and expose the deception that is Donald Trump. He was also a colleague of Jack Newfield and the Jack Newfield Lecture Series is going to be hosting tonight about Wayne Barrett, the same day we lose Jim Dwyer. And working on the video for Wayne Barrett, it's almost reinforcing that we lose Jim Dwyer. Jack Newfield, Jimmy Breslin, Pete Hammill who we just lost, Jim Dwyer - I grew up with these guys. I say in the video, I said that I'm out of sync with today's journalism, because I grew up in the home of Mario Cuomo. As a kid, listening to Jack Newfield and Jimmy Breslin and Pete Hammill and Wayne Barrett and the back and forth, and it was a different type of journalism back then. It was not journalism that was 280 characters in a Tweet. They wouldn't do that. They wouldn't think that you could do it. And it was not about 'he said, she said'. I say in the video, when journalism becomes 'he said, she said' - he says the world is round, she says the world is flat - when that's the extent of journalism, don't be surprised when half the population thinks the world is flat because there was no arbiter of truth. A higher endeavor of journalism, he says the world is round, she says the world is flat, however every scientist since the findings of Christopher Columbus say the world is round and there is absolutely no basis to say the world is flat. That's adding the discovery of the truth. Jim Dwyer was about the discovery of the truth, and he was brilliant. He was hard working. He also was a poet. He had a beautiful way of communicating it. He had the same gift that I think Billy Joel has. Billy Joel is brilliant, but he has a gift of communicating in a way that people understand. He has a connectivity - capacity to connect. Jim Dwyer, through a

different medium, had that same ability; the ability to connect with New Yorkers, to take complicated subjects, find the truth, and then communicate it to New Yorkers in a way they understood.

Jim Dwyer had a contemporary, Mike McAlary, who was a good friend of mine in my bridal party, and both Jim and I spoke at Mike's eulogy. Mike had that gift also. But he is gone, he is gone, and it's a terrible loss. I went to see Jim at Memorial Sloan Kettering the other day and he was full of - he was there and the whole experience, God bless those people at MSK, gowns, and masks, face shields. They're trying to do their job, and then they have to do their job, which is difficult enough, on top of COVID. I spent hours with Jim walking through Subway tunnels when we were redoing the MTA last year, and finding out why the system had decayed. I can't tell you how many - we got to the bottom of the drainage problem. The reason the water was backing up was because the drainage system was clogged at the MTA. And then we did these late night visits together to car repair shops, where people were supposed to be working and nobody was around, and that's what prompted the time clocks being put in, because we showed up at places that the employees just weren't there, so that's when we started the time clocks.

Anyway, it's sad. It is really, really sad. He was my contemporary, my age. Best I know he didn't have COVID. But he's gone and I miss him, and we're going to be the weaker for it.

Contact the Governor's Press Office



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EXHIBIT K
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)



OCTOBER 9, 2020 Albany, NY

Audio & Rush Transcript: Governor Cuomo Is a Guest on CNN Newsroom with Poppy Harlow and Jim Sciutto

Governor Cuomo: "Statewide, the number is one of the lowest numbers in the United States of America. We do more testing than any state in the United States. We do more testing in one day, Jim, than most states do all week... Our tactic is wherever you see an ember, run and stamp out the ember before it becomes a flame."

Cuomo: "To Governor Whitmer who is a colleague of mine, I applaud her. I applaud how she's handled herself. I applaud what she's doing and I applaud how she's stood up to these thugs. Look, the President fans division. He does. He always has, started in Charlottesville with KKK there are good people on both sides...Divide and conquer is his strategy and it's corrosive, it's detrimental to everything we're about but it's what he has done from the beginning."

Earlier today, Governor Cuomo was a guest on CNN Newsroom with Poppy Harlow and Jim Sciutto.

AUDIO of the Governor's interview is available [here](#).

A rush transcript of the Governor's interview is available below:

Jim Sciutto: Joining us now is the Governor of New York, Andrew Cuomo. Governor, thank you for taking the time this morning.

Governor Cuomo: Good to be with you, Jim. Thank you.

Jim Sciutto: So, first question: can there be a targeted fix for this or are you concerned that New York will have to reinstitute a more broader lockdown in response?

Governor Cuomo: Jim, this is actually how it should be done. Statewide, the number is one of the lowest numbers in the United States of America. Today, I'm going to announce an infection rate of about 1 percent, that is literally one of the lowest rates and it's remarkable because we had one of the highest rates. We do more testing than any state in the United States. We do more testing in one day, Jim, than most states do all week. So, when you do that much testing you can target exactly where the new cases come from, the quote unquote clusters, and we can target them by block. And what we're now doing is where we see a cluster, and our infection rate in a cluster is about 5 percent - which is still lower than most states - we just target those clusters and we have a couple of unique clusters, frankly, which are more religious organizations, and that's what we're targeting. But that's what should happen.

Jim Sciutto: Do you blame those groups for flouting the rules?

Governor Cuomo: Blame. You know, blame will be done by a higher authority at one time. They're not following the rules. We know what happens when you don't follow the rules, the infection rate goes up and it just proves our point from the get go. We know how to control the virus, but you have to control the virus. You have to be disciplined, and when you don't follow the rules, it goes up, and that's what's happening in these very small clusters. Now, these are religious groups. It tends to get more complicated, frankly, because of some cultural aspects. But that's what we're seeing in New York. Our tactic is wherever you see an ember, run and stamp out the ember before it becomes a flame.

Jim Sciutto: Okay. As you know, an Orthodox Jewish advocacy group and a Roman Catholic Diocese of Brooklyn, actually, filed two separate federal law suits against you over these new restrictions on religious gatherings. What is your response to those lawsuits?

Governor Cuomo: Yeah, the cluster is a predominantly ultra-orthodox cluster. The Catholic schools are closed because they happen to be in that cluster, but the issue is with that ultra-orthodox community. This is not a matter of religious freedom, right? I don't care if you're Roman Catholic, you're Jewish, you're Muslim, you're an atheist. You have to follow the rules of the state, the laws of the state. And I understand the beliefs of the ultra-orthodox, I have been very close to them all my life, I'm a big supporter of theirs, but the you have to follow the rules, Jim, because we're seeing the truth and the truth is if you don't follow the rules, the infection rate spreads, people get sick, and then you make others sick. You know we're talking about Brooklyn. We're not talking about a hermitically sealed community in a rural area. This in the middle of Brooklyn. They will make other people sick.

Jim Sciutto: The science is clear. Final question, if I can, before we go - a fellow governor, sitting governor, happens to be a Democrat, but a fellow sitting governor in this country, the target of a domestic terrorism plot, and a complicated one. I mean they tested out IEDs. I had the Lieutenant Governor on this broadcast this morning and you heard the Governor, Governor Whitmer last night say that the President's rhetoric helps fuel these groups, gives them license, and I wonder if you agree with that criticism.

Governor Cuomo: I certainly do. First, to Governor Whitmer who is a colleague of mine, I applaud her. I applaud how she's handled herself. I applaud what she's doing and I applaud how she's stood up to these thugs frankly. Look, the President fans division. He does. He always has, started in Charlottesville with KKK there are good people on both sides. No. The KKK is not good. Racism is not good. Discrimination is not good. Kidnapping is not good. Violence is not good. I see it here in New York with the political interference with this ultra-orthodox community that we have on our clusters. I believe that I have evidence that the Trump campaign is fueling their opposition and their divisiveness. The President has always done this, right? Divide and conquer is his strategy and it's corrosive, it's detrimental to everything we're about but it's what he has done from the beginning so yes, I believe he's behind it. I believe his campaign stokes it. I don't think there's any question.

Jim Sciutto: Well Governor Cuomo, we wish you and the people of New York luck as you get a handle on this. I'm a New Yorker myself and we only wish you the best.

Governor Cuomo: Thank you, Jim. Same here.

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EXHIBIT L
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)



OCTOBER 12, 2020 Albany, NY

Audio & Rush Transcript: Governor Cuomo Updates New Yorkers on State's Progress During COVID-19 Pandemic

New York State Positivity Without Red Zone Focus Areas Included is 1.05 Percent; Full New York State Positivity is 1.12 Percent

40 Percent of Yesterday's Hospital Admissions from Areas in Hot Spot Zones Downstate and Southern Tier Counties State is Monitoring after Recent Increases in Cases

12 COVID-19 Deaths in New York State Yesterday

SLA and State Police Task Force Visits 641 Establishments; Observes 5 Establishments Not in Compliance

Governor Cuomo: "The President has been promoting the politics of denial on COVID and he's done that on day one. He's doing the politics of denial even after he had COVID And it's a disgusting denial when you see the number of lives lost. There are some states that have followed the politics of denial and have turned it into science fiction. The theory was if you test less, you will find fewer cases, and if you find fewer cases, you have less of a problem. That's almost a laughable concept. But you are now seeing it in the numbers as if it is an actual representation."

Earlier today, Governor Andrew M. Cuomo today updated New Yorkers on the state's progress during the ongoing COVID-19 pandemic. New York State's positivity rate without the Red Zone focus areas included was 1.05 percent for yesterday's test results. The state's overall positivity rate is 1.12 percent.

In "Red Zone" focus areas included as part of the Governor's Cluster Action Initiative, the positivity rate for test results reported yesterday is 3.70 percent - down from the 6.13 percent average from last week - however, it is important to note that weekend test results are often not reflective of the current situation and testing results over the next days will help show the impact of recent efforts to combat these outbreaks. The "Red Zone" focus areas are home to 2.8 percent of state's population, yet had 17.6 percent of all positive cases reported last week to New York State.

AUDIO of the Governor's remarks is available [here](#).

A rush transcript of the Governor's remarks is available below:

Happy Columbus Day. I'm joined by Melissa DeRosa, Robert Mujica, Dr. Zucker, Gareth Rhodes, Beth Garvey. Sorry for doing the briefing late, but I was out celebrating Columbus Day, like I'm sure many of you on the telephone were doing. Before we go to the numbers, I want to make a larger point. I've been watching the news, TV news, reporting 30 states are showing an increase in the number of COVID cases and putting numbers on the screen on the increase of COVID cases. Many of those numbers come from extrapolating from the infection rate that the states report. I think we're in a place where numbers are losing their meaning.

Second, COVID, I don't believe goes away anytime soon. They talk about the fall and we're seeing an increase across the country, which is what they projected, but this is not a second wave. A second wave is the virus mutates and comes back - that's the second wave, right? And we're still in the first wave, and this is just an inability to deal with the first wave nationwide. Even if they come up with a vaccine, you then have to administer the vaccine. There will be people who will not receive the vaccine for one reason or another. We went through this in the past with vaccines - some people don't believe in vaccines and they won't take the vaccine. Some people will be nonresponsive, some people will be hard to reach,

some people won't be able to afford it, some people will be afraid of it. So, I think it's realistic to say, at least for a year, you will be dealing with COVID. That's without the mutated virus, et cetera, and that may be an optimistic scenario. Doesn't mean that once they start with the vaccine, some people won't have the vaccination, and by the way, the vaccine, some people say you need two dosages of the vaccine, but you will still have COVID outbreaks, let's say for a year. So, you'll still be needing to manage COVID outbreaks for optimistically, one year of time. How you do it is very important because that's the difference between a cluster and community spread, right?

The President has been promoting the politics of denial on COVID and he's done that on day one. He's doing the politics of denial even after he had COVID. "It's not a problem, you get COVID, you get in a helicopter, you go to Walter Reed, Walter Reed sends a team of doctors and they give you experimental drugs that nobody else can get and then you're fine."

Yeah, that's denial. And it's a disgusting denial when you see the number of lives lost. There are some states that have followed the politics of denial and have turned it into science fiction. The theory was if you test less, you will find fewer cases, and if you find fewer cases, you have less of a problem. That's almost a laughable concept. But you are now seeing it in the numbers as if it is an actual representation. You look at the chart that I sent you, take a state like Florida. Florida was doing 428,000 cases - I'm sorry - 428,000 tests at their peak on a high week. 428,000 tests in a week. Last week, they did 153,000 tests. Close to a third. Why? That's the Trump politics of denial. We only have cases because we're testing. If we test less we will have fewer cases. So Florida goes from 428,000 tests per week to 153,000 tests.

Texas goes from 520,000 tests to 349,000 tests. Georgia goes from 210,000 tests to 132,000 tests. Arizona goes from 94,000 tests to 70,000 tests. How can your testing numbers be going down? Our testing numbers are going up because this was all about ramping up testing. Getting your state labs sophisticated on how to do testing. Acquiring the reagents. When we started testing, we could only do 500 tests per day. Five hundred tests per day. We now do 120,000 tests per day because you ramp up.

You would have to purposefully ramp down the number of tests. Why would you do that? Because it's the politics of denial being implemented in the public health system, which is

based on science-fiction. Science-fiction is if you don't test, you won't find the positive cases and therefore, they don't exist. That is science-fiction, but that is what you see happening in some states in this country.

When people are listening to the news or reading the news, this is how many cases, this is in this state, this is in this state, here's the map with all these different colors. Part of it is all science-fiction because it's not accurate because they're not collecting data that is accurate because they don't want to. It's the politics of denial actualized in state data. How do you go down in the number of tests and why? And, by the way, why isn't that reported - which would then dispel the myth, right? Florida, Georgia, Texas, Arizona - this is how many cases we have. No it's not. It's the number of cases you have discovered with your reduced number of tests. That's just a sample.

New York, we're doing the exact opposite. New York, our strategy is now to identify micro-clusters. What is a micro-cluster? I've never heard that before. You're right, you've never heard it before because it's a new term that we use in New York. We do more testing than any other state so we have more data. We also are obsessive about getting incoming case numbers from the hospital. You map those cases and you find the greatest predominance of cases in a geographic area. That is a micro-cluster. For us, the greatest number of cases in a micro-cluster is relative only to us in New York. In other words, we have a 1 percent, just about, infection rate. We find a 2 percent cluster, to us that's a micro-cluster. To other states that's nothing, because relatively our numbers are so much lower. So, we say in our micro-clusters we have an infection rate of 3 or 4 percent, okay? Today, for example, the micro-cluster is 3.7 percent, alright? The Red Zone. You look at the chart we sent out, 3.7 percent -- Illinois statewide is 4.2. Texas is 7.6. Ohio is 3.7. Michigan is 3.3. North Carolina is 6. Jersey is 3. Florida is 11. Virginia is 4.8. Right? Georgia is 6. Pennsylvania is 7. Arizona is 6. How can you call a hot spot a micro-cluster, a micro-cluster or a hot spot if it is lower than all these other states? It's not a national hot spot. Nationwide those numbers are better than many states. Only relative to New York do we consider it a micro-cluster. Only when you're at 1 percent does 3 percent seem like an issue. Most of these other states would celebrate if they had 3 percent. 3 percent in a lot of states would be a safe zone. In New York it's a micro-cluster, and we're going to be doing more of this wherever we find a concentration of cases relative to our norm, that is a micro-cluster. It is only relevant to New York, because every

other state is in a much different situation. So, when we say Red Zone, micro-cluster, Brooklyn, Queens, yes, but that is not accurate to say New York State has hot spots, which is a term we used in the state, but it's not nationwide. A hot spot, it's nationwide. A cool spot compared to where other states are, right? And it's because we're this diligent that we keep the number down. I talk to Governors all day long. They say, "how do you stay at 1 percent?" I say, when I see two cases on the same block, I run to that block. That's how. So, yes. Hot spot, even though it's a lower percentage than many other states. Okay? I just wanted to make sure we were clear. Because if we're going to continue to do this we're getting more refined in our targeting. And as we go into the Fall, and the numbers nationwide are going up, we want to purposefully keep our numbers down. Even one percent, by the way is an absurdly low margin to operate on, and unrealistic. I understand intellectually, however emotionally I want to set the bar very high, or very low if the case may be. But that's what the chart will show you, and I just want to put this conversation in some sort of, since it's red nationally it has to be in the national focus. Look at the New York State infection rate compared to other states where 1.1, right, and again, our hot spots are doing better than many states.

Today's numbers, the hot spot number is 3.7. That's actually down but this is a holiday weekend so again take these with a grain of salt.

The state is 1.05, so we're at one. The state, if you add in the micro-clusters, the red zones, it is at 1.1. Now, that number is also misleading because it oversamples areas that you know have an abnormally high rate, okay? Some of you reporters are political reporters. If I released a poll and said normally Democrats in a poll are 44 percent, this poll has 60 percent Democrats, you would say, yeah, but then it's skewed. Yes. We don't do weighting in these polls but I'm telling you we take, we've been oversampling the micro-clusters because we want to know what's going on there. If you add that oversample into the statewide sample, it skews a statewide sample and that's 1.1 but if you like to report skewed results then be my guest.

12 New Yorkers passed away, 878 were hospitalized - that's is up 58. The largest single identifiable addition is from the micro-clusters. The hospitalization rate: 878. Remember we were at 18,000 hospitalized so the hospitalization number to us is more relevant as an

indicator for where people are, where the cases are coming from again, right? We can do it testing tells you where the cases are, hospitalizations tell you where the serious cases are, and that's why we track the hospitalizations the way we do. 185 in ICU, 86 intubated, and that's basically, be region, 1.1 New York City, that's a problem, that's Brooklyn and Queens; Capital Region 0.9; Central New York 1.4; Finger Lakes 0.8; Long Island 1.2; Mid-Hudson 1.9, that's Rockland and Orange; Mohawk Valley 0.4; North Country 0.2; Southern Tier 0.9; Western New York 1.1. Western New York is better than it has been but we would like to see that at 1.0. Orange is 2.3; Rockland is 4.0; Broome, we have that one cluster as 3.0; Brooklyn is 1.2.

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EXHIBIT M
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)



OCTOBER 14, 2020 Albany, NY

Audio & Rush Transcript: Governor Cuomo Announces State Will Withhold Funds for Localities and Schools in COVID-19 Cluster Zones If They Fail to Enforce Public Health Law

Sends Letter Warning Local Governments in Cluster Zones That They Will Lose State Funding If They Fail to Enforce Gathering Limit and School Closure Rules

Sends Separate Letter Warning Public and Private Schools in Cluster Zones That They Will Lose State Funding If They Do Not Comply with Closure and Testing Rules

Positive Testing Rate in Hot Spot Areas is 6.29 Percent; New York State Positivity Without Red Zone Focus Areas Included is 0.95 Percent

7 COVID-19 Deaths in New York State Yesterday

SLA and State Police Task Force Visits 634 Establishments; Observes 2 Establishments Not in Compliance

Governor Cuomo: "The micro-cluster we're focusing on is the ultra-Orthodox communities. As you know, it is still the same. The question now is enforcement... We know there were violations where yeshivas were operating; we know there were religious gatherings happening that exceeded the guidelines. WABC and

N.J. Burkett, kudos to him, he did a great piece where he had a yeshiva that was operating in plain view. Gothamist also had a piece to the same point - so kudos to them for good reporting. This is especially a problem in Brooklyn and Orange and Rockland Counties."

Cuomo: "Number one, we are sending a notification to local governments saying they must enforce public health law under Section 16, enforcing the public health law especially in the red zones. Especially when it comes to closing schools and religious gatherings. If the local government does not effectively enforce the law, we will withhold funds from the local government... We're also sending a letter to all schools in the red zones, saying to them they must be closed if they violate the Section 16 order - we will withhold funding from the schools... Third, for the schools that have been identified as violating the closure order they will be served today with a notice mandating they close, and we are withholding funding from those schools and we're withholding funding until the matter is resolved to our satisfaction."

Earlier today, Governor Andrew M. Cuomo announced that New York State will withhold funds for localities and schools in COVID-19 cluster zones that fail to enforce public health laws. The New York State Department of Health will send a letter warning local governments in cluster zones that they will lose state funding if they fail to enforce state limits on gatherings and the closure of schools. The letter will be sent to New York City, Orange County, Rockland County, the Town of Ramapo and the Village of Spring Valley.

Governor Cuomo also announced that DOH will send an additional letter warning public and private schools in cluster zones that they will lose state funding if they do not comply with state requirements on closure and testing.

AUDIO of today's remarks is available [here](#).

A rush transcript of the Governor's remarks is available below:

Thank you very much. Good morning everyone. I'm joined by Melissa DeRosa, Robert Mujica, Beth Garvey, Gareth Rhodes, Dr. Zucker and Richard Becker. Let's start at the top, which is always a good place to start. COVID has been with us for about 7 months. Let's learn the lessons and let's be smart. Smart works when you're dealing with a virus. Politics doesn't work. Unintelligent doesn't work. New York Tough, but part of New York Tough is New York Smart.

If we did testing the way most states are doing testing, the report today would be very simple. Our testing shows that we are .95 statewide. That would be the whole report. I'd say, "Thank you very much," hang up, .95 is very good, we're below one percent. That's what testing means, nationwide. We tested statewide, did 100,000 tests and we're at .95. We go beyond that and we do more tests and we now do a series of tests where we over-sample. We test just certain, small geographic areas because the way of the world going forward is going to be that the virus will constantly flair up in certain locations.

The trick, the art form, is going to be identifying these small sites where it flares up and be able to stop it before it spreads. That's the art form. A doctor said something interesting to me a couple of weeks ago. He said, you know, every week the body is attacked by dozens of viruses, but the immune system responds and defends against the virus. The ones that make you sick are the ones where the immune system fails to respond or gets overpowered by the virus. We've never actually killed a virus.

That metaphor works for this larger scale. We have multiple viral attacks per week: Bars, one bar that has too many people; one birthday party with too many people; one religious gathering with too many people - that's a viral attack. Now, most states you don't realize it, you don't even know it, because you don't see it. All you have is the statewide number. We have the capacity given our heightened testing to see things that normally you don't see.

We do the testing, we do the data analysis and we now can find these micro-clusters. These micro-clusters will continue, I would say, for at least one year because you need a vaccine, you have to administer a vaccine, there will be certain populations who won't take the vaccine. There will be certain populations who don't believe in the vaccine, religious reasons, the anti-vaxxers, and you'll continue to have clusters at least a year. By the way, this could go on for years, alright? Unless you assume that 100 percent of the population is going to be vaccinated. So, let's remember the context because if you don't have the context, then we report inaccurate data or misleading data.

So, statewide we're at .95 percent. We then oversample — separate test — on the micro-clusters and we call the micro-clusters now "red zones," right? The micro-clusters, we are at 6.2 today. If you take the oversample of the micro-clusters and roll it into the statewide numbers, you are at 1.1. That, however, is misleading. I used the analogy, I think the other day: if I did a political poll and I oversampled Democrats and included the oversample of Democrats in the poll and then said, "Oh look, my favorability is 99.9." You'd say, "Yeah, yeah, but hold on for a second — that's an oversample of Democrats in the poll," and you'd be right. You have an oversample of the highest infection rate in the state, the clusters, so it skews the number. So, it's 1.1 skewed in the state; it's .95 without the skew. Those are very good numbers. The 6.2 in the red zones, that number is actually lower than many statewide infection rates right now, so we call 6.2 a "red zone." In many states, it's less than the statewide infection rate. Orange is 7.4, Rockland is 7.2, Brooklyn is 6.4.

When you look across the regions, New York City is 1.2. That's pulling us up. Capital is 1.2. Central is 1.2, Finger Lakes .7, Long Island 1, Mid-Hudson 1.6, Mohawk .1, North Country .1, Southern Tier 1 — which is actually good. Western New York 1, and that's actually good also.

Seven people lost their lives. Hospitalizations. Hospitalizations we have been tracking. Today it's +15, but it's the trend line that matters, OK? Let me give you the last 10 days on hospitalizations so you get the trend line. Ten days ago, it was +18, +69, then +43, then +6 which was an anomaly, then + 25, +47 +58, +45, today + 15. So, in that trend line, +15 is good, right? We also have education numbers on the dashboard that I would suggest you look at because all these school districts have plans, "We're going to do this, we're going to do this, we're going to do this." The dashboard actually shows you the reality of what's going on in the

school system. The number of people who tested positive is up 334, that's on-site and off-site. It's 240 on-site which means teachers and students who were in school. New York City it's up about 86: 54 in public schools, 32 in private schools, but you can go to the dashboard for more information on that.

The micro-cluster we're focusing on is the ultra-Orthodox communities. As you know, it is still the same. The question now is enforcement. It is enforcement. This is no longer question public education, its enforcement. I've made it very clear to members of this community what the law, is what the rules, what the science is. I've had personal conversations, dozens and dozens of them. It's not a question of education, it's a question of enforcement. Local governments must do enforcement. The primary responsibility in this entire situation for local governments is enforcement. They do two things: they do testing, which then goes back to the state, and they then do the enforcement. I don't have the resources to do enforcement statewide. If I had to do this all over again, one of the lessons learned, I would have had the state takeover or hire statewide enforcement. Because the enforcement from the local governments is very uneven especially when it's politically sensitive. And that's what we're running to with lot of these ultra-Orthodox communities, who are also very politically powerful, don't kid yourself.

Suffolk County, Steve Bellone, kudos to him he just did a sanction against the Miller Place Inn. The Miller Place Inn is a restaurant Suffolk County. They had a Sweet Sixteen party - how sweet. Yeah, it wasn't that sweet. Dozens of people from the Sweet Sixteen party got sick it just shows you how one event can generate so many cases. He took enforcement action so good for him. There was a concert out in Southampton sponsored by a group called the Chainsmokers, they are going to be found today to have violated an Executive Order and what we call Section 16 of the Public Health Law. They're going to be fined \$20,000. The town of Southampton that authorized the outdoor group gathering they are going to have a sanction placed where they cannot approve permits for group gatherings without first receiving State approval. So, if they want to approve an outside group activity, they're going to have to get it pre-approved by the State. I've spent time talking to the people in the town of Southampton - frankly, I don't know what they were thinking.

Moving on, we also know that in the red zones the schools are supposed to be closed, public and private. We know there were violations where yeshivas were operating; we know there were religious gatherings happening that exceeded the guidelines. WABC and N.J. Burkett, kudos to him, he did a great piece where he had a yeshiva that was operating in plain view. Gothamist also had a piece to the same point - so kudos to them for good reporting. This is especially a problem in Brooklyn and Orange and Rockland Counties. We are taking three actions today. Number one, we are sending a notification to local governments saying they must enforce public health law under Section 16, enforcing the public health law especially in the red zones. Especially when it comes to closing schools and religious gatherings. If the local government does not effectively enforce the law, we will withhold funds from the local government. The local governments that are receiving that are New York City, Orange County, Rockland County, Town of Ramapo, Village of Spring Valley. If these schools are operating, it's easy enough to find out, N.J. Burkett did it, Gothamist did it. You would think a local government would have that capacity to do it. If they don't, we will withhold funding from the government. I don't like to do that. Budgets are tough all across the board. I don't know how else to get them to do the enforcement they need to do. So, hopefully that will motivate them, because nothing else I have done has motivated them - not my rapier wit, not my sense of humor, not my guilt, not my blame, not my admonition, and not my pleas. Maybe money works.

We're also sending a letter to all schools in the red zones, saying to them they must be closed if they violate the Section 16 order - we will withhold funding from the schools. Many schools receive funding - the yeshivas receive a significant amount of funding. I in past budgets increased funding to yeshivas, Rabbi TAP, additional funding per child, that all went up. If they violate the health order they will not receive funding. Third, for the schools that have been identified as violating the closure order they will be served today with a notice mandating they close, and we are withholding funding from those schools and we're withholding funding until the matter is resolved to our satisfaction. We do not know at this time when that will be, but we are commencing withholding funding against those schools.

There is a difference, just so you know, between providing child care and operating a school. You cannot operate a school and then say, "well, tomorrow I've turned it into a child care center. So, now I'm operating the school, but it's not a school it's a child care center." There's

an apple, and there's an orange. There's a school, and there's a child care center. A child care center has a separate license, separate regulations, separate age categories, separate operating guidelines. Child care facilities can operate, but they have to be licensed child care facilities and then they have to be inspected to make sure they're following the rules. But a school is not a child care facility, and you fool no one by saying, "oh no, they're not walking into a school they're walking into a child care facility." Maybe you can fool some people, but you can't fool the State of New York.

The ultra-Orthodox community, the Hasidic community, we're not talking about a monolith here, right? Many groups have been cooperative and have been helpful, and I want to acknowledge that also. These rules were in effect for 14 days. We don't look at ZIP codes, we don't look at Census tracts, we don't look at any districts that are in any way arbitrary. We look at where the actual cases come from. If at the end of 14 days there are some areas where the cases have dropped, we will relax the regulations on those places. If there are places where the cases have gone up, we will increase the regulations on those places. Just because we're talking about Brooklyn, or we're talking Borough Park, we can distinguish block by block and we will. So, for those groups that are getting the numbers under control, God bless, and if the numbers are under control, we'll reduce regulations. For those areas that are not, we'll increase the regulations.

Last point, we opened the Mother Cabrini statue this week; it is magnificent. Just on a personal note, when you're down by Battery Park City I would suggest you go by. It really is a - not just the statue, but the whole site and the spot is incredible. We're also going to be doing a statue - and by the way, we got that statue done in one year. I announced it last Columbus Day. We put the Commission in place, found the site, identified the funding, and the sculptors did the sculpture, which is a very large sculpture, and they got it done in just one year. Last month, I announced New York State will honor the life and legacy of the late Justice Ruth Bader Ginsburg with a statue in her native Brooklyn. Today I'm releasing a list of the 19 members that we appointed to a new Commission, but the Commission includes Jane Ginsburg, who is the daughter to Justice Ruth Bader Ginsburg; Clara Spera, who is the granddaughter; Mimi Ginsburg, who is also the granddaughter; and then some really quality people. And four honorary chairs: Secretary Hillary Clinton, Justice Sonia Sotomayor, Chief

Judge Janet DiFiore, and Gloria Steinem. So, I am looking forward to that and lord knows she deserves it.

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EXHIBIT N
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)



OCTOBER 15, 2020 Albany, NY

Audio & Rush Transcript: Governor Cuomo Announces State to Provide 200,000 Rapid Test Kits to New York City Schools in "Yellow Zones"

Statewide Positivity Rate is 1.09 Percent

Positive Testing Rate in Hot Spot Areas is 4.84 Percent; New York State Positivity Without Red Zone Focus Areas Included is 0.99 Percent

13 COVID-19 Deaths in New York State Yesterday

Governor Cuomo: "Dealing with COVID is not checkers. It's chess. So, let's start to think ahead. We're dealing with the fall. The next step is going to be dealing with a vaccine. We all hope and pray that the vaccine comes sooner rather than later. It gets very complicated very quickly and we need to know what is the plan, what does the federal government do, what do you expect the states to do. When does it start? Who funds it, et cetera? Let's figure it out now because this virus has been ahead of us every step of the way. It's about time this country catches up."

Cuomo: "I asked local governments to do testing in the schools surrounding the red zones, what we call a yellow zone, where we've asked local governments to do testing in those schools in the 'Yellow Zones,' they're basically buffer zones. Some of the

local governments have said they don't have enough test to do it. I said if you need something tell me and I will provide it for you. We're going to give New York City 200,000 test kits so they can do the tests in the schools in the 'Yellow Zones.'"

Earlier today, Governor Andrew M. Cuomo today announced that the state will provide 200,000 rapid test kits to New York City schools in "Yellow Zones." On October 9, Governor Cuomo announced that COVID-19 rapid result testing will be made available to every county in New York State. Those tests will also be made available on an as needed basis to help schools in "Yellow Zones" test students and staff as part of new requirements to monitor COVID-19 spread as part of the Governor's Cluster Action Initiative.

AUDIO of today's remarks is available [here](#).

A rush transcript of the Governor's remarks is available below:

Good morning. I have Melissa DeRosa, Robert Mujica, Dr. Zucker and Beth Garvey on the telephone with me today.

Let's start off walking about the overall situation we're in in a national context. We've been talking about the fall and the challenges that the fall has brought for COVID and we see an increasing number all across the nation. We see it all across the globe and we're in the midst of dealing with that.

I think it's also very important that the next time that we start to think ahead. Dealing with COVID is not checkers. It's chess. So, let's start to think ahead. We're dealing with the fall. The next step is going to be dealing with a vaccine. We all hope and pray that the vaccine comes sooner rather than later.

There will be a question when the vaccine comes out. The first question will be do the American people trust the vaccine. We've anticipated that in New York. We said we'll put

together a committee of professionals that will review the protocol and efficacy of the vaccine. If that committee tells me that the vaccine is safe I will tell the people of the state that the vaccine is safe. I do believe there will be distrust about the vaccine because I believe there is distrust about this federal administration's reliance or lack thereof on science.

That'll be the first hurdle but let's get past that first hurdle, so the vaccine comes out, people believe it's safe, people are willing to take it. You then have to administer it. How do you do that? How do we administer 20 million vaccines in the State of New York and how do you do that quickly and how do you do that safely? How do you do the vaccines all across the country? Government does not do these large operational complex functions easily or well. "Well, government just administers it." It's not that simple and the federal government has shown that it doesn't have the operational capacity to do these things. That's why the federal government at the beginning of COVID just delegated it all to the states. All right and then you handed the state the responsibility but the state wasn't in a position to procure PPE and we weren't in a position to manage an entire hospital system that was a private system or do hundreds of thousands of tests.

When we started we could only do 500 tests a day. Our Department of Health is not an operational agency. It's a regulatory agency. We are now doing over 100,000 tests per day. We could only do 500 when we started.

Well, then we administer the vaccine. It's not that simple and I want to anticipate that and I've been speaking to my colleagues around the country on and the National Governor's Association, of which I'm Chairman this year, is sending the President a letter today that says, in essence - we released the letter, I believe, "Dear President Trump, The States have been at the forefront of the fight against COVID-19 pandemic, working tirelessly. Governors are willing to assist your administration on the national vaccine program to make it's smooth and efficient. However, guidance and clarification is needed on the roles and expectations of the states in that vaccination distribution implementation program. To that end, we request a meeting with you and your team to discuss what is required to ensure a strong partnership. Delineation of state responsibility, funding needs, with those responsibilities and the planned supply chain management and vaccine allocation process."

That letter will go to the President today. It is a massive, monumental undertaking and if you listen to the White House it could be just a matter of weeks away. I'm telling you, there's no simple answer. "Well, the military will do it. The states will do it. Well the CDC will do it." It's not that simple and it's very expensive and it's very complicated. And, by the way, there is going to be a subset of people who will not take the vaccine.

We went through that in this State with measles. You will have a group of people who, they call themselves the anti-vaxxers. You'll have a group of people who will say, "We're not taking the vaccine." How do you deal with that? It means you'll have ongoing small flare ups of COVID. That letter goes out today. I hope we get a response. It's clear the states won't be able to do it on their own. We don't produce the vaccine, there's also very specific storage requirements for the vaccine. There's also some specifications that some people would need to receive two doses of the vaccine - it would have to be the same vaccine. It gets very complicated very quickly and we need to know what is the plan, what does the federal government do, what do you expect the states to do. When does it start? Who funds it, et cetera? Let's figure it out now because this virus has been ahead of us every step of the way. It's about time this country catches up.

Next point, we talk about the fall. Very few of the outbreaks that we have had in New York - the clusters that we talk about in New York - would have happened had we had compliance and had we had enforcement. In other words, if you look at where the outbreaks are coming from, there are situations where there was a lack of compliance. Lack of compliance matched with a lack of enforcement. If it was just a lack of compliance but there's enforcement, then the situation is corrected. If there's a lack of compliance and there's a lack of enforcement, then there's an outbreak.

If you go through the outbreaks we're looking at, which are I call them micro-clusters, which is a word - another new word - a new expression, that we just designed during COVID, but in New York we talk about micro-clusters. These are small situations. This is a Sweet Sixteen party on Long Island. This is a bar in Broome County that violated the rules. They are episodic, but one episode can create dozens of cases, so it's a lack of compliance and a lack of enforcement.

I was in a briefing one day when, a transportation briefing, and a point was made that stuck with me: something like the overwhelming majority of all traffic fatalities are involved with speeding — that if people weren't speeding, you would dramatically drop the number of fatalities. So, speeding enforcement actually saves lives. You can have an accident, but the fatalities are much less if you're not speeding. If we have better enforcement with COVID, we will save lives and that's what we're trying to do with the enforcement. Some of the complexity on the enforcement here, especially with members of the Ultra-Orthodox community — they have never complied with the rules and I have had dozens and dozens of conversations. It's not that they are not complying with the current "red zone" rule, they never complied with any of the close-down rules going back to March. That's why some find this shocking because they didn't follow many of the rules all along and that's why they think this is abrupt. What is abrupt is that they would comply with any rule. I also want to make the point that the majority of Ultra-Orthodox groups that I've been speaking with are cooperative. There are a relatively small number — loud but small — that are uncooperative and just believe that they should be exempt from these types of government regulations. But what's complicating it for this smaller number of groups is that they really have not ever followed any of these rules back from March, which is surprising. But, that's why I want to be nice and clear with local government because it's not that they haven't enforced the rule in the past couple of weeks. Some of them have not enforced the rules for months, and that's the shock to some of these communities and that I find inexplicable at this point, you know. Local enforcement, which I've been talking about every week, and when you're talking about whether or not a school is open, or a yeshiva is open, or a church is open, you're not talking about fine detective work, right? If a yeshiva is open, you can tell because you see school buses with children in them. School buses are normally large and yellow - they're designed to stick out, that's why they paint them yellow, from a safety point of view. It's not that I'm asking local government to take fingerprints, right? Just see the school buses, guys.

Let me give you the numbers for today - oh, one other point. I also asked local governments to do testing in the schools surrounding the red zones, what we call a "Yellow Zone," where we've asked local governments to do testing in those schools in the "Yellow Zones," they're basically buffer zones. Some of the local governments have said they don't have enough test to do it. I said if you need something tell me and I will provide it for you. We're going to give New York City 200,000 test kits so they can do the tests in the schools in the "Yellow Zones."

Okay, today's numbers - today's day 229. The "Red Zones" are 4.84; the state without the "Red Zones" to 0.99. The state with the "Red Zones" is 1.09. Thirteen New Yorkers passed away - they're in our thoughts and prayers. Hospitalization is down 41 to 897. 197 ICU, 95 intubated.

Last point, I've asked you all please to watch the school dashboard. Many parents have anxiety about the school re-opening - I've said that the anxiety is justified, these are frightening times. School districts put out the plans but that we would see how the plans were implemented, and if there was a problem we would react and we know if there was a problem because we were watching the testing data. And the testing data are the only facts we receive. The dashboard is up - if you look at the testing data on the dashboard, yesterday 131 positive test results from 111 schools. 95 onsite, meaning students, teachers who were onsite at school, 36 offsite. 672 public school districts submitted data. New York City showed 38 positives, 31 onsite from 28 schools. Two schools showed two or more student cases - PS 131 in Queens, PS 194 in the Bronx. Two or more cases in New York City triggers a review by the New York City plan. And I think that is the bulk of the information.

The regional positivity - New York City 1.0, Capital District 0.8, Central New York 1, Finger Lakes 1.3, Long Island 1.1, Mid-Hudson 1.6, Mohawk Valley 0.5, North Country 0.5, Souther Tier 1.1, Western New York 1.6.

Contact the Governor's Press Office



**Contact us
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EXHIBIT O
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

A New Battle Against the Virus Is Set for 9 ZIP Codes

 [nytimes.com/2020/10/05/nyregion/coronavirus-zip-codes-nyc.html](https://www.nytimes.com/2020/10/05/nyregion/coronavirus-zip-codes-nyc.html)

Daniel E.
Slotnik

October 5, 2020

[Want to get New York Today by email? [Here's the sign-up.](#)]

It's Monday.

Weather: Slight chance of an early sprinkle, but the sun emerges later. High in the upper 60s.

Alternate-side parking: In effect until Saturday (Shemini Atzeret). [Read about the amended regulations here.](#)

Image



Credit...Mark Abramson for The New York Times

[Update: Governor Cuomo said on Monday that he would not approve the closing of businesses in nine hard-hit parts of New York City.]

After a deadly spring as the epicenter of the coronavirus pandemic in the United States, New York City finally seemed to be on the mend: Students could return to school, diners could eat in restaurants and life as we knew it before the pandemic felt nearly in reach.

But on Sunday, Mayor Bill de Blasio announced that high coronavirus infection rates in parts of Brooklyn and Queens had led him to propose “rewinding” the reopening in those sections of the city.

If the plan is approved by the governor, schools and nonessential businesses in those hot spots will close for a minimum of two weeks while the city waits for the infection rates to decline.

Whether the uptick in infections is an anomaly or the start of a second wave of remains to be seen. Here’s what you need to know:

What will close

Essentially, the affected ZIP codes will go back to life under lockdown.

Starting this Wednesday, public and private schools will close, as will nonessential businesses and restaurants — for both indoor or outdoor dining.

Places of worship will remain open, though only at 50 percent capacity, because of a federal court order, city officials said.

Everything will stay closed for two to four weeks, and longer if necessary. The plan is a setback for the city, the first major reversal since reopening began.

“Today, unfortunately, is not a day for celebration,” Mr. de Blasio said. “Today is a more difficult day.”

Where infection rates have spiked

Mr. de Blasio specified nine ZIP codes that would see the most severe restrictions, including portions of Far Rockaway and Kew Gardens in Queens, and Borough Park, Midwood, Gravesend, Bensonhurst and Sheepshead Bay in Brooklyn.

Latest Updates: The Coronavirus Outbreak

More live coverage: Markets

All of those ZIP codes have had positivity rates of more than 3 percent in recent days, and some have reached 8 percent. The citywide average is about 1.5 percent.

He also noted 11 more ZIP codes in which the rate of infection had risen rapidly, but not to the alarming levels of the other nine. They include parts of Williamsburg, Bedford-Stuyvesant, Fort Greene, Clinton Hill, Manhattan Beach, Bergen Beach, Kensington and Crown Heights in Brooklyn; and Rego Park, Fresh Meadows, Hillcrest and Jamaica Estates in Queens.

Schools and most businesses will be allowed to remain open in those 11 ZIP codes, but indoor dining will end and gyms will close.

Mr. de Blasio said that he thought aggressive measures could keep the infection rate down in other parts of the city.

“There does not have to be a second wave,” Mr. de Blasio said. “The fact is that these communities are experiencing a problem.”

The makeup of the nine ZIP codes

All of the ZIP codes scheduled for more severe measures, while diverse, have large Orthodox Jewish populations — communities in which the virus has spread widely and might have killed hundreds in the spring.

There have been mounting concerns about infections surging among the Orthodox during gatherings such as religious services, weddings and funerals, and at yeshivas, private religious schools that serve tens of thousands of children.

Public health officials have had little success persuading residents to wear masks, practice social distancing or take other preventive measures. Local leaders said that the surge in infections was driven by denialism, unfounded hope of herd immunity and misinformation spread by President Trump, who in 2016 received more than 80 percent of the vote in some precincts in these neighborhoods.

“This is a community where a lot of people believe they have already had the virus, a lot of people believe they have herd immunity, so they really believe they don’t need to get tested,” Assemblyman Simcha Eichenstein of Brooklyn said last month. “That is why it is so important to communicate with people on the ground.”

The city has closed yeshivas in the past few months and threatened to lock down Orthodox neighborhoods for not following health regulations.

Many of these ZIP codes have large numbers of residents who are not Orthodox Jews, and the new restrictions could lead to tension between them and their Jewish neighbors.

No word from the governor

By Sunday evening, Governor Andrew M. Cuomo, who has had a combative relationship

with Mr. de Blasio, had not publicly announced whether he would approve Mr. de Blasio's plan.

Earlier in the day Mr. Cuomo released a statement criticizing unnamed local officials for not curbing the virus.

"Local governments have not done an effective job of enforcement in these hot spot ZIP codes," Mr. Cuomo said.

North of the city, Rockland and Orange Counties, which both have large Orthodox Jewish populations, have also seen sharp spikes in coronavirus positivity rates in recent days, sometimes double or triple the rates of the ZIP codes in New York City.

Mr. Cuomo did not mention whether a similar lockdown was under consideration for them.

Neighborhood shutdowns could be effective

Whether shutting down a portion of the city can actually curb the infection rate is a matter of some debate, since infected people could presumably travel to other parts of the city or state and spread the disease.

Saskia Popescu, an epidemiologist at George Mason University, said that closing neighborhood schools and businesses could help tame the virus, but that it would not be easy.

"Shutdowns are tricky, and targeted ones have shown both pros and cons," Dr. Popescu said. "The hard part is really communicating with people so that you're not pushing them to seek resources outside that affected area and potentially just pushing that ring further."

From The Times

[N.Y.P.D. Warns Officers: Wear Your Masks](#)

[WeChat, Wild Rumors and All, Is Their Lifeline. Washington May End That.](#)

[Should N.J. Legalize Marijuana? The Voters Will Decide](#)

[1 Dead and 2 Are Injured as Seaplane Slams a Pier in Queens](#)

[Meet Theater's Most Famous Superfan: Hillary Clinton](#)

Want more news? [Check out our full coverage.](#)

The Mini Crossword: Here is [today's puzzle.](#)

What we're reading

Someone **drove an S.U.V. into a crowd of bicycle-riding protesters** over the weekend, injuring two. [[Gothamist](#)]

Maya Wiley, former legal counsel, adviser and “ideological soul mate” to Mayor de Blasio, is **expected to announce her run for mayor this week**. [[New York Post](#)]

The restaurant at the Loeb Boathouse in Central Park is closing for the foreseeable future. [[The City](#)]

And finally: From the archives

Image

Credit...Carl T. Gossett/The New York Times

From [@nytarchives](#) on Instagram:

“One of the most influential fashion figures of the last decade, Audrey Hepburn is the film star most women would like to emulate,” The Times reported in December 1963.

Our staff photographer Carl T. Gossett took this portrait of the actress two years after she starred in “Breakfast at Tiffany’s” — which was released in theaters on this day in 1961 — and at a location that was just a short walk from the jewelry brand’s flagship Fifth Avenue store.

She was holding her Yorkshire terrier, Assam, in this photo.

It's Monday — keep going.

Metropolitan Diary: Star struck

Image

Dear Diary:

In 1971, I yelled “hello” to Ed Sullivan as he was walking near the General Motors Building near the south end of Central Park. No response.

I said a loud “hello” to Dick Barnett of the New York Knicks in Midtown in 1972, but he did not glance in my direction.

In 1973, I yelled out to Elston Howard, the former Yankees catcher, as he walked out of a supermarket in Teaneck, N.J. No response.

Jon Bon Jovi walked past me in SoHo several years ago. I nodded my head. (I'm older now.)

He smiled and nodded back.

— *Rich Herman*

New York Today is published weekdays around 6 a.m. [Sign up here](#) to get it by email. You can also find it at nytoday.com.

We're experimenting with the format of New York Today. What would you like to see more (or less) of? Post a comment or email us: nytoday@nytimes.com.

EXHIBIT P
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

N.Y.C. Closes Some Schools ... Again

Just days after reopening, schools and day care centers are set to close in nine New York City hot spots in Brooklyn and Queens.



By **Amelia Nierenberg** and **Adam Pasick**

Oct. 5, 2020

This is the Coronavirus Schools Briefing, a guide to the seismic changes in U.S. education that are taking place during the pandemic. Sign up here to get this newsletter in your inbox.



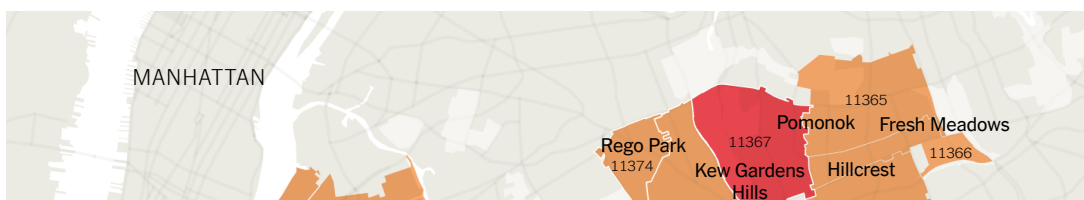
Brooklyn's Borough Park and Gravesend areas have positivity rates hovering around 8 percent. Mark Abramson for The New York Times

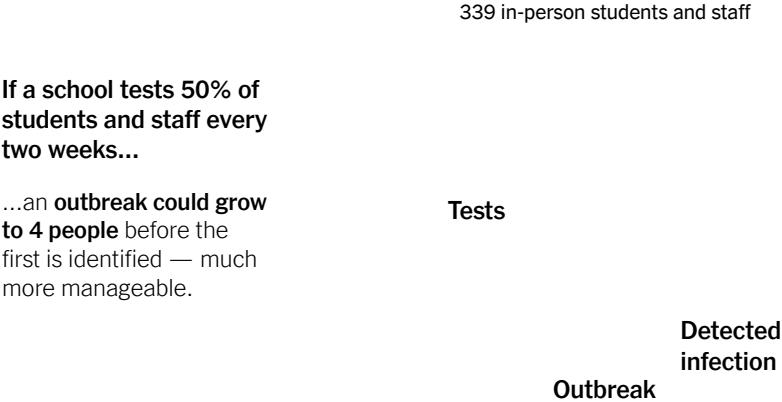
Some N.Y.C. schools to close again

Mayor Bill de Blasio dialed back New York City's school reopening this weekend, announcing a plan to close public and private schools in nine Brooklyn and Queens ZIP codes where coronavirus cases are surging.

The outbreaks already threaten the fragile reopening of the New York City public school system. They may also send shock waves nationwide, for officials in other large metropolitan areas who are tracking the city's progress.

Areas With New Restrictions





Note: Figures represent the sizes of outbreaks that can be detected at least 90 percent of the time if each percentage of students were tested every two weeks. • Source: Anna Bershteyn and R. Scott Braithwaite, New York University • By The New York Times

Read More: N.Y.C.’s plan to randomly test students in each public school may fall short, according to new research from New York University. The city plans to test a random sample of 10 to 20 percent of students and staff members each month. But to nip outbreaks in the bud, the researchers say the city needs to test about 50 percent of the school population, twice a month. That may not be achievable without a huge increase in resources.

Chase Sturgis, 21, an Appalachian State student, said he saw unnerving similarities between himself and Chad Dorrill, a fellow student who died of suspected coronavirus complications. "He died a week or two after he got the virus," Mr. Sturgis said. "It has been about two weeks for me." Mike Belleme for The New York Times

Appalachian State gets serious

Since last Monday, when a sophomore at Appalachian State University died from suspected Covid-19 complications, the school has hunkered down. Students in Boone, N.C., are in shock over the death of 19-year-old Chad Dorrill. Some are thinking about their own mortality.

"When someone our age actually passes away, it's harder," said Kathryn Behmer, 19. "We thought it wouldn't affect us. We're young, we're healthy."

Young people have generally been at lower risk of developing severe cases, but that statistical advantage has led to troubling apathy. Cases spiked sharply last week at Appalachian State. Surrounding Watauga County also experienced its worst seven-day period in the pandemic this past week, according to data collected by The New York Times. Coronavirus cases in the county have more than doubled since Sept. 1, to more than 1,300, and an update last week found "the largest percentage of cases in the 18- 24-year-old age group."

Now, at least at Appalachian State, that apathy might be drying up. "I wear my mask for Chad" has become a catchphrase. And Emma Metzger, a senior, called Dorrill's death "a big wake-up call for a lot of people," though she pointed out that many students "still only wear masks because they don't want people to think badly of them in public."

On Thursday, the school announced outbreaks in four residence halls, two fraternity houses, the volleyball team and the football program.

Despite warnings from the faculty, which voted to hold the system responsible for any illness or death as a result of reopening, students live in dorms and many classes are held in person. Although student-athletes must be tested under N.C.A.A. rules, Appalachian State has not implemented the kind of costly, widespread mandatory testing and tracing system that has helped control the virus at some campuses.

School Reopenings ›

Back to School

Updated Oct. 16, 2020

The latest on how schools are reopening amid the pandemic.

- The president of the State University of New York at Oneonta, where more than 700 students tested positive for the virus, has resigned.
 - What's it like on a campus where the entire student body is supposed to quarantine? [College journalists report on their lives in lockdown.](#)
 - The pandemic is adding to the strain on millions of poor U.S. college students who lack housing, computers and reliable Wi-Fi.
 - Longtime home-schoolers offer advice on how to make remote learning work.
-

Instead, the school offers "pop-up" test sites twice a week and voluntary testing at its student health center. Chancellor Sheri Everts said the school had also added an extra pop-up testing event, expanded contact tracing resources and suspended football practice.

Around the country

College

- **Harvard College** sent three freshmen home last weekend after finding out that they hosted a party last month, The Harvard Crimson reports.
- Officials at the **University of Oklahoma** say there are 250 students and staff members who are being isolated or in quarantine.
- College football teams are making far more mistakes than usual. Coaches say irregular practices and reshuffled rosters from test results and quarantines are to blame.
- Across **Texas**, colleges and universities spent the summer months bulking up their testing capacity for asymptomatic students. But halfway through the semester, schools are reporting participation rates far below their goals, The Texas Tribune reports.
- Lexi Haskell, a student at **Indiana University**, wrote a smart, candid reflection about her guilt about contracting the coronavirus and how hard it is to stay safe on campus. “When I drove down to IU in August, I knew I would probably get COVID-19,” she wrote.
- In the **Boston** area, isolated first-year students are bonding over an Instagram account, collegesboston2024, which is staffed by seven students working in shifts around the clock.

K-12

- In **Indiana**, a new publicly funded virtual school has come under scrutiny for attracting wealthy families, which state education officials say could be an illegal enrollment incentive, Chalkbeat reports.
- In **Manchester, Ga.**, two middle school students tested positive, leading to over 90 people in quarantine.
- In **Berkeley, Calif.**, city officials say elementary schools can reopen next week as the number of positive cases drops.
- **Quebec** has become the first Canadian province to reintroduce tough shutdown measures as cases rise. But schools will remain open.
- Some children of military families, who often move around a lot, are struggling to make friends in new districts without extracurricular activities or play dates.

Tip: Enlist your students

Ife Damon, a high school English language arts teacher in Staten Island, N.Y., is teaching anxious students who are dealing with the pandemic and the reckoning over systemic racism. Instead of shying away from difficult issues, she’s leaning in.

“I plan to harness students’ curiosity to address those concerns. Through a model known as community-based learning, educators connect what students learn, based on state standards, to what is happening in their communities,” Damon wrote in The 74.

Damon, a member of Educators for Excellence-New York, shared how she turned her students into “modern-day muckrakers.”

“In these chaotic times,” Damon wrote, “students need a culturally responsive and relevant approach to instruction that creates engaging, collaborative, standards-based learning. All of us would benefit.”

Sign up here to get the briefing by email.

EXHIBIT Q
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

Cuomo used 14-year-old photo to show mass Orthodox gatherings during pandemic

 nypost.com/2020/10/05/cuomo-used-14-year-old-photo-to-show-orthodox-gatherings-during-pandemic/

By Bernadette Hogan and Tamar Lapin

October 5, 2020

October 5, 2020 | 5:15pm

[Enlarge Image](#)



Gov. Andrew Cuomo shows photos of large orthodox Jewish gatherings during his news conference today.

What a shanda.

Gov. Andrew Cuomo put New York’s Jewish Orthodox community on blast Monday for hosting mass gatherings amid the pandemic — but used a nearly two-decade old photo to illustrate his point.

“We know there have been mass gatherings going on in concert with religious institutions in these communities for weeks,” Cuomo said during a news briefing addressing COVID-19 outbreaks in certain areas of the Empire State.

On display beside the gov was a slideshow with images purporting to be of recent packed events in the Orthodox community, in Crown Heights, Brooklyn and Orange County.

“These pictures are just from the past couple of weeks,” Cuomo declared.

In fact, one of the photos was taken 14 years ago — at the 2006 funeral of revered Hassidic rabbi Moshe Teitelbaum in the Orange County village of Kiryas Joel.

The “oy vey” moment was caught during the briefing, and the image replaced with one taken two weeks ago at the same location, said Cuomo senior advisor Rich Azzopardi.

“This was a staff error that was caught in real time at the presser,” Azzopardi tweeted. “It was swapped out with this photo that was taken two weeks ago at the same location. The new slide was up during the last 10 minutes of the press conference.”

EXHIBIT R
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

Only essential businesses to remain open in COVID-19 hotspots; schools remain closed: Cuomo

 [nydailynews.com/news/politics/ny-nyc-coronavirus-cuomo-de-blasio-cluster-action-initiative-20201006-hmz2bzfnmrcqlllyudua7qmmjdu-story.html](https://www.nydailynews.com/news/politics/ny-nyc-coronavirus-cuomo-de-blasio-cluster-action-initiative-20201006-hmz2bzfnmrcqlllyudua7qmmjdu-story.html)

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By Denis Slattery
New York Daily News |

Oct 06, 2020 at 6:23 PM

ALBANY — Gov. Cuomo unveiled a plan to combat coronavirus “clusters” Tuesday that includes closing businesses and limiting religious gatherings in areas seeing a surge in cases.

The governor called the measure a “last resort” and blamed the uptick in infections in the city on Mayor de Blasio failing to enforce social distancing and mask-wearing mandates.

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“When you see the cluster, you have to stop it at that point,” the governor said during a briefing at the State Capitol.

The new restrictions, which include limits on religious services, barring mass gatherings and stopping indoor and outdoor dining in affected areas, come a day after the governor dismissed the city’s proposal to close businesses and Cuomo knocked de Blasio on enforcement and defining hotspots by zip code.

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“If the plan I passed into law was actually enforced, we wouldn’t be here,” he said. “If the enforcement was actually done you wouldn’t have those congregations.”

The affected areas in the city are predominantly Orthodox Jewish neighborhoods where many residents have resisted safety measures such as social distancing and mask-wearing.

Related Gallery

Back to school during coronavirus

Cuomo said that boundaries of COVID-19 clusters will be determined by geographic proximity to addresses of confirmed cases, rather than by zip code as the city has been defining them.

The so-called “Cluster Action Initiative” designates areas with higher infection rates as hotspots and limits activity in surrounding areas as well.

The initiative will focus on two areas in Queens, and a large swath of south Brooklyn as well as areas in upstate Orange County and Rockland County.

Locations will be categorized either Red, Orange, or Yellow, based on proximity to the cluster and the severity of the problem will determine the response.

Roughly 14 minutes before Cuomo’s press conference began, the city sent out guidance saying that non-essential businesses will be closed in nine city zip codes where COVID-19 rates have remained over 3% for at least seven consecutive days.

According to Cuomo, the new rules can go into effect as early as Wednesday and have to be in place by Friday. Local governments have to figure out how to notify local businesses and houses of worship about the guidelines for each applicable zone.

The restrictions will last for 14 days, when the state will then reevaluate the infection rate.

The mapping for the plan is broken down into three color-coded areas with red indicating a cluster center, where schools will be closed, restaurants limited to takeout and nonessential businesses shuttered. Religious gatherings in the hotspots are limited to 10 people.

Surrounding areas are coded orange, meaning remote learning for schools, outdoor dining only and a 25 person capacity on religious gatherings.

A yellow ring, which Cuomo called the “precautionary area,” around the other two means that indoor and outdoor dining is allowed and schools can be open as long as students, teachers and staff undergo weekly testing for in-person classes.

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Maps released by Cuomo of the city “clusters” conflict with the zip code system used by City Hall, meaning more school closures could be in the cards.

City Schools Chancellor Richard Carranza said that previously closed schools will remain shuttered and that the city is receiving “additional specifics about what this means for school buildings.”

“As noted by the state government, NYC will be consulted on the new COVID cluster maps,” de Blasio spokesman Bill Neidhardt tweeted. “Tomorrow, the City will engage in outreach and education in these communities with implementation likely to begin on Thursday.”

The city’s daily average COVID-19 caseload has steadily increased over the past week, topping 500 for the first time in months on Tuesday. Statewide, New York reported a 1.2% infection rate, with the 5.5% positivity rate in the top 20 zip codes factored out. With those areas included, the state rate is 1.45%.

A total of nine people died from the virus Monday and 705 were hospitalized, including 158 being treated in intensive care units.

Earlier in the day, de Blasio defended the city’s enforcement efforts and reiterated his call on the state to shut down businesses in the Brooklyn and Queens neighborhoods seeing a surge.

“In this instance, we saw this problem grow, tried the same strategies, tried more enforcement. It was not turning the tide,” the mayor said. “You can only enforce in so many places at so many times. We’re now at the point where we need restrictions.”

De Blasio described the shutdowns as a “necessary rewind” needed to prevent a potential mass outbreak from hitting the city. The five boroughs were the epicenter of the pandemic in the U.S. back in the spring, prompting strict stay-at-home orders from the governor.



FILE - New York Governor Andrew Cuomo. (Luiz C. Ribeiro/for New York Daily News)

Cuomo, who signed off on shuttering schools in hot spot areas on Monday, argued that the city has failed to enforce already existing restrictions and questioned whether City Hall could handle stricter rules for religious and mass gatherings.

“This virus is not being spread by non-essential businesses. It’s not being spread by schools,” Cuomo said. “This is about mass gatherings, and one of the prime places of mass gatherings are houses of worship. I understand it’s a sensitive topic, but that is the truth.

“This is about protecting people and saving lives,” he added.

With Michael Elsen-Rooney

Recommended on Daily News

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EXHIBIT S
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

NYC Shutdowns in Cluster Zones Start Thursday; Fines Up to \$15,000 a Day Apply for Violations

 [nbcnewyork.com/news/local/sweeping-new-restrictions-in-new-york-hotspots-take-effect-this-week-what-to-know/2655712/](https://www.nbcnewyork.com/news/local/sweeping-new-restrictions-in-new-york-hotspots-take-effect-this-week-what-to-know/2655712/)



COVID-19

Restrictions in all NYC cluster zones take effect Thursday for a minimum of 14 days, Mayor Bill de Blasio said; fines of up to \$15,000 a day for mass gatherings, up to \$1,000 for social distancing violations will be issued

NBC Universal, Inc.

What to Know

- Gov. Andrew Cuomo unveiled a sweeping slate of new restrictions for cluster zones, color-coding them 'red,' 'orange' or 'yellow' by risk; red areas see total shutdowns. The rules are in effect for at least 14 days
- Schools in the orange zones must also switch all-remote and gyms and personal care businesses are closed; they can remain open in yellow zone areas but mandatory weekly testing applies for schools
- While Cuomo's mapped zones are less geographically encompassing than the ZIP code shutdowns Mayor de Blasio had proposed, they heavily impact Orthodox communities, which are protesting

UPDATE: New NY Restrictions Take Effect, NJ Hints at Tighter Rules to Come as Hospitalizations Soar

Parts of New York, including areas of Brooklyn and Queens, will see their most severe COVID restrictions in months resume Thursday, Mayor Bill de Blasio said, with nonessential businesses closed and mass gatherings banned in state-identified cluster zones that have seen positivity rates soar over the last month.

De Blasio warned heavy fines -- up to \$15,000 a day for violating the rules on mass gatherings and up to \$1,000 a day for social distancing and mask violations -- will be issued as officials work to contain the worst outbreak in months.

There are three different levels of restrictions, according to the color-coded maps unveiled Tuesday by Gov. Andrew Cuomo's office. The highest-risk areas are colored red, surrounding areas in orange and precautionary spots in yellow. Schools in the red zones were closed earlier this week by Cuomo, while schools in the orange zones will switch all-remote Thursday, de Blasio said. Those shaded yellow can remain open to in-person learning but must conduct weekly testing.

The United Federation of Teachers, the city's rank-and-file teacher's union, said 124 schools across 153 locations will now have to go all-remote on Thursday. That includes 33 more schools than an initial shutdown proposed by Mayor de Blasio over the weekend. 308 other schools were in the yellow zone requiring weekly testing.

Are you in a cluster zone? Here are all the maps -- and a quick guide to the rules

De Blasio noted that Crown Heights and Williamsburg, areas the city has been carefully tracking, are not within the state's cluster zones. He said the city would continue to monitor those areas and focus on outreach and enforcement.

De Blasio said the city would develop a searchable tool by address to help people determine in which, if any, cluster zone they reside.

It's not clear how long the new restrictions could last. They're likely to remain in place for a minimum of 14 days but could stick for a month or longer depending on community compliance and trends in COVID positivity rates.

In his briefing Wednesday, de Blasio said the city has a tough few weeks ahead, but urged New Yorkers to come together to address the outbreak head on.

"It's up to all of us," the mayor said. "It will take hard work and discipline and certainly there will be sacrifice. I feel for everyone in the communities who will be affected. If we act quickly and decisively we can overcome this for all of us, for the whole city. We need to stop this outbreak dead in its tracks."

| [Are You in a Cluster Zone? Here Are the Maps — and a Quick Guide to the Rules](#)

Cluster maps were also drawn for parts of Orange and Rockland counties that have seen extensive COVID upticks in recent weeks, so much so that they, along with the ones in the city, are driving up numbers statewide: Hospitalizations hit their highest total Tuesday

since July 22 (705). The positivity rate is also up.

As of Wednesday, the overall positivity rate for the 20 hotspot ZIP codes was 5.1 percent (Brooklyn - 2.2%; Orange County -- 3.9%; Rockland County -- 4.5%; Broom County -- 6.1%), Cuomo said. The statewide infection rate hit 1.25 percent; without the hotspot areas, it would be around 1.05 percent, the governor said.

Those 20 ZIP codes have accounted for 20 percent of all new hospital admissions over the last two weeks, and the same share of all positive cases statewide Tuesday, despite representing just 6.7 percent of the state's population.

In the hotspot ZIP codes the positivity rate is 5.1%.

We are taking quick action to respond to the clusters & stop the spread.

Here are the 20 hotspot ZIP codes: pic.twitter.com/dNbxFENjPq

— Andrew Cuomo (@NYGovCuomo) [October 7, 2020](#)

'Cluster Action Initiative' Controversy

While the full restrictions have yet to go into effect, some business owners, parents and worshippers are already pushing back on Cuomo's self-dubbed "Cluster Action Initiative," which heavily encompasses Orthodox communities.

Some members of those communities say they're being unfairly targeted. Dozens of community members took to the streets in Borough Park, one of the nine mayorally identified city hotspots, Tuesday night to protest the state's plan. At one point, a fire erupted in a crosswalk. Some people tossed masks into the flames.

De Blasio addressed some of the protests Wednesday, saying he understood people opposed the new restrictions and they have the right to feel the way they do. But, he said, the city won't tolerate setting fires or assaults on police officers. If that happens, he warned there would be consequences.

Parents are also concerned. By Cuomo's ruleset, schools in yellow zones can stay open but students and staff must be randomly tested on a weekly basis. De Blasio encouraged parents Tuesday to sign consent forms for their kids, while Catholic schools in various parts of the state are threatening to sue the governor.

The state and city are still working to finalize the cluster zone maps, and Cuomo said the state would take the lead on enforcement in the highest risk areas, though localities will be required to provide personnel to assist with those efforts. New York City has to contribute about 400 people to the state task force.

Daily Percentage of Positive Tests by New York Region

Gov. Andrew Cuomo breaks the state into 10 regions for testing purposes and tracks positivity rates to identify potential hotspots. Here's the latest tracking data by region. For the latest county-level results statewide, [click here](#)

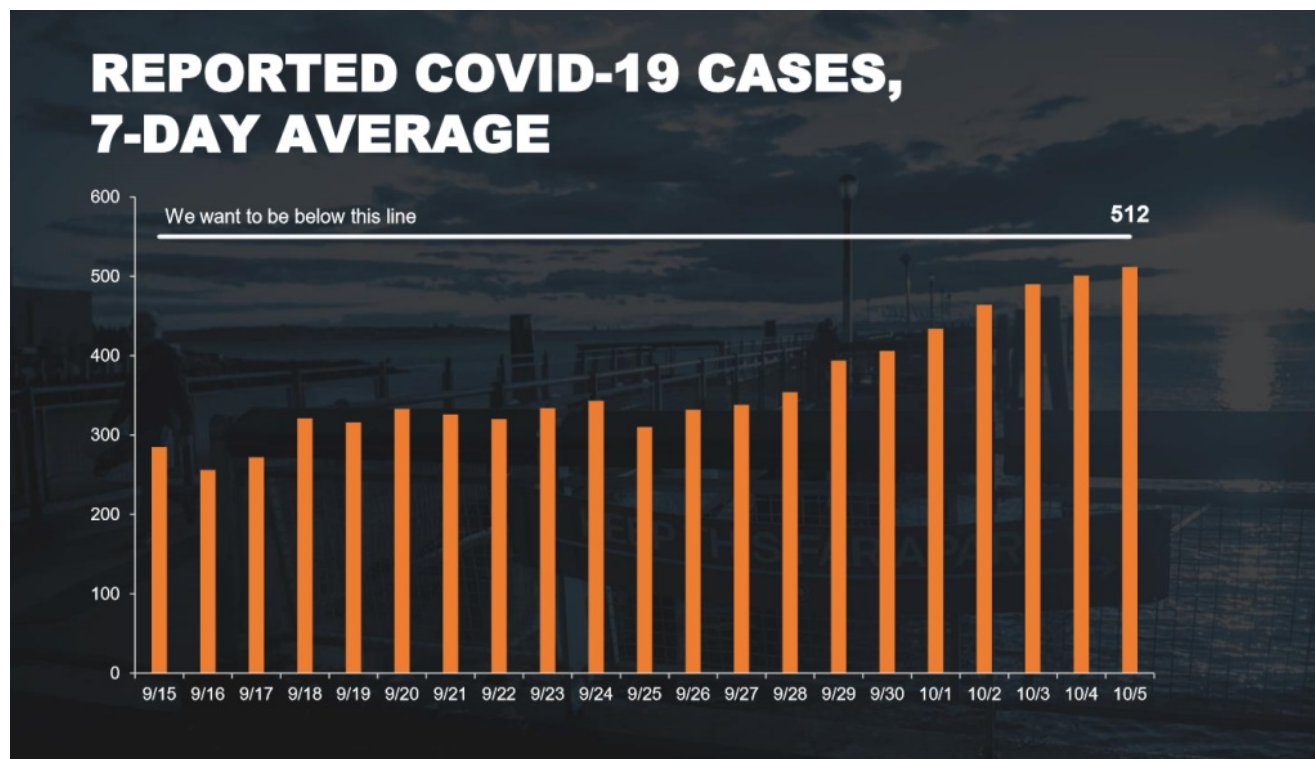
Source: ny.gov

The Writing on the Wall

To those who are frustrated by the impending slate of restrictions, Cuomo said Tuesday, "There is no one who can say they didn't see this coming."

De Blasio initially proposed a shutdown plan for nine hotspot ZIP codes to the state on Sunday. He wanted full COVID restrictions reinstated in those areas by Wednesday and was keeping an eye on what became a growing number of ZIP codes on the city's watchlist. De Blasio added a 13th ZIP code to that list Tuesday as the city's daily case average topped 500 for the first time in months.

It was even higher on Wednesday.



Handout

The city's daily COVID case average continues to tick up to its highest levels in months.

Combined, new cases from the watchlist ZIP codes and the nine hotspots have accounted for more than 40 percent of all citywide cases over the last two weeks, officials said.

The nine hotspots alone account for a quarter of new COVID cases citywide over the last two weeks, despite representing just 7.4 percent of the population. They've seen positivity rates above 3 percent for more than seven consecutive days. Two of the watchlist ZIP codes were on the verge of the same Wednesday.

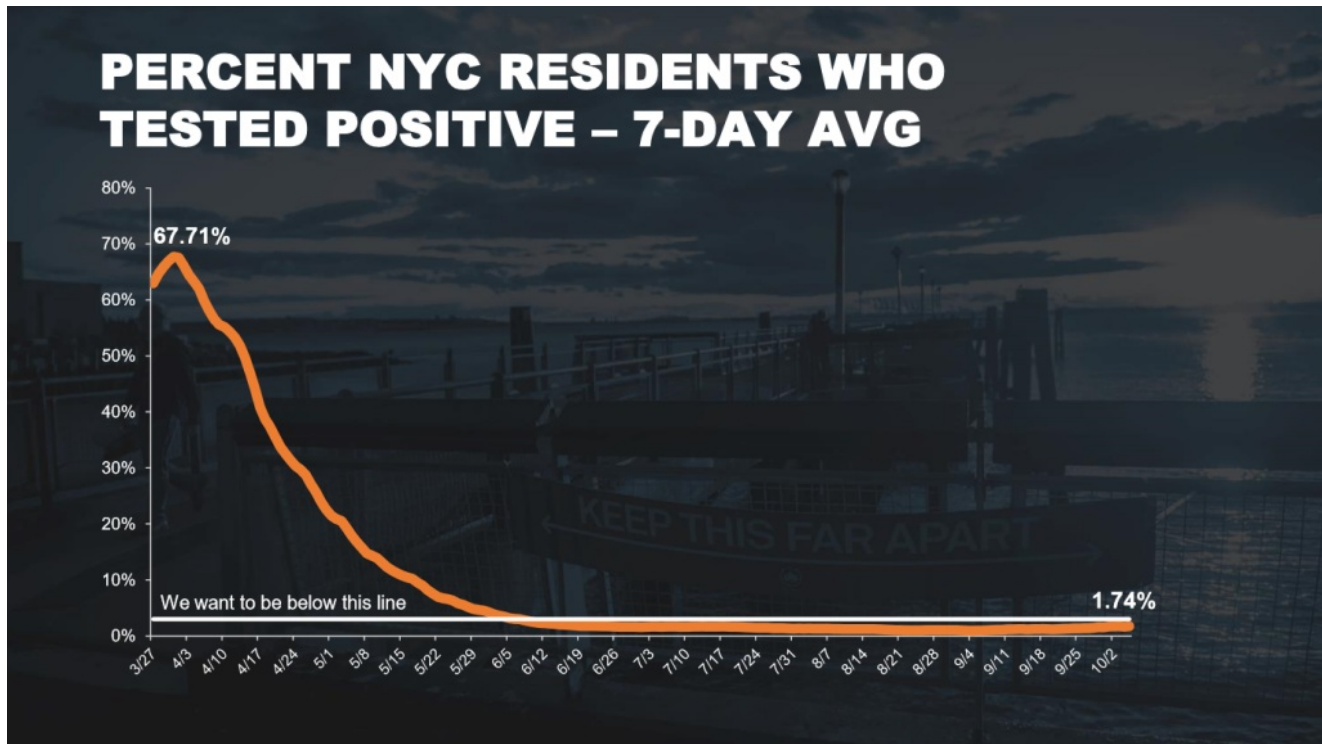


Handout

Red zone areas are subject to the tightest restrictions.

"The facts on the ground are clear. We need restrictions to stop this problem," de Blasio said in his daily briefing Tuesday. "If we all do what's right as we did before, we keep moving forward. If we do it wrong, it endangers the whole city."

The threat has become more apparent with each passing day, as the health indicators show. The city's daily average COVID caseload has risen drastically in recent weeks. Its seven-day rolling positivity rate is nearing the 2 percent threshold that de Blasio set to shutter indoor dining across all five boroughs.



Handout

The city's rolling positivity rate continues to inch closer to the 2% threshold the mayor set to shut down indoor dining citywide.

Emergency departments citywide are seeing a slight uptick in visits for COVID-like illnesses over the last week, the health department said.

Health officials declined to identify specific hospitals seeing ER visits rise, though said in a statement, "With COVID19, increases in hospital visits generally follow an increase in cases. Data show we are starting to see an uptick in the number of hospitalized patients in two hospitals in Brooklyn and at least one in Queens."

As New Yorkers all too painfully learned earlier this year, more cases tend to lead to more hospitalizations, which ultimately leads to more death. According to data from Johns Hopkins University, more than 33,000 New Yorkers have died of COVID-19, more than any other state and about 16 percent of the national toll.

New York City alone has lost at least 21,000 people, including deaths that probably were caused by COVID but not definitively linked to it by diagnosis. The CDC has said another 5,000 more fatalities could be attributed to it in some way.

Weather Forecast

New York, NY

EXHIBIT T
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

IDEAS

Schools Aren't Super-Spreaders

Fears from the summer appear to have been overblown.

OCTOBER 9, 2020

Emily Oster

Economist at Brown University



JOHN MOORE / GETTY

IN EARLY AUGUST, the first kids in America went back to school during the pandemic. Many of these openings happened in areas where cases were high or growing: in Georgia, Indiana, Florida. Parents, teachers, and scientists feared what might happen next. *The New York Times* reported that, in parts of Georgia, a school of 1,000 kids could expect to see 20 or 30 people arrive with COVID-19 during week one. Many assumed that school infections would balloon and spread outward to the broader community, triggering new waves. On social media, people shared pictures of high schools with crowded hallways and no masking as if to say *I told you so*.

Fear and bad press slowed down or canceled school reopenings elsewhere. Many large urban school districts chose not to open for in-person instruction, even in places with relatively low positivity rates. Chicago, L.A., Houston—all remote, at least so far.

It's now October. We are starting to get an evidence-based picture of how school reopenings and remote learning are going (those photos of hallways don't count), and the evidence is pointing in one direction. Schools do not, in fact, appear to be major spreaders of COVID-19.

SINCE EARLY LAST MONTH, I've been working with a group of data scientists at the technology company Qualtrics, as well as with school-principal and superintendent associations, to collect data on COVID-19 in schools. (See more on that project here.) Our data on almost 200,000 kids in 47 states from the last two weeks of September revealed an infection rate of 0.13 percent among students and 0.24 percent among staff. That's about 1.3 infections over two weeks in a school of 1,000 kids, or 2.2 infections over two weeks in a group of 1,000 staff. Even in high-risk areas of the country, the student rates were well under half a percent. (You can see all the data here.)

[Juliette Kayyem: Reopening schools was just an afterthought]

School-based data from other sources show similarly low rates. Texas reported 1,490 cases among students for the week ending on September 27, with 1,080,317 students estimated at school—a rate of about 0.14 percent. The staff rate was lower, about 0.10 percent.

These numbers are not zero, which for some people means the numbers are not good enough. But zero was never a realistic expectation. We know that children can get COVID-19, even if they do tend to have less serious cases. Even if there were *no* spread in schools, we'd see some cases, because students and teachers can contract the disease off campus. But the numbers are small—smaller than what many had forecasted.

Predictions about school openings hurting the broader community seem to have been overblown as well. In places such as Florida, preliminary data haven't shown big community spikes as a result of school openings. Rates in Georgia have continued to decline over the past month. And although absence of evidence is not

evidence of absence, I've read many stories about outbreaks at universities, and vanishingly few about outbreaks at the K–12 level.

One might argue, again, that any risk is too great, and that schools must be *completely safe* before local governments move to reopen them. But this approach ignores the enormous costs to children from closed schools. The spring interruption of schooling already resulted in learning losses; Alec MacGillis's haunting piece in *The New Yorker* and ProPublica highlights the plight of one child unable to attend school in one location, but it's a marker for more. The children affected by school closures are disproportionately low-income students of color. Schools are already unequal; the unequal closures make them more so. Virtual school is available, but attendance levels are not up to par. Pediatricians have linked remote schooling to toxic stress.

Parents are struggling as well, not just children. Cities have recognized the need for child care for parents who cannot afford to quit their jobs to supervise their kids, but this has led to a haphazard network of options. Houston, for example, has opened some schools as learning centers. L.A. has learning centers set up for low-income students in alternative locations. These spur the questions: If school *isn't* safe for everyone, why is it safe for low-income students? And if school *is* safe for low-income students, why isn't it safe for everyone?

[Emily Gould: Remote learning is a bad joke]

Democratic governors who love to flaunt their pro-science bona fides in comparison with the anti-science Trump administration don't seem to be aware of this growing body of evidence. On Monday, for instance, New York Governor Andrew Cuomo claimed that businesses were not “mass spreaders,” as opposed to schools, and subsequently announced that he would close schools in hot-spot areas.

Where can the country go from here? From my end, we are going to continue to collect data through our dashboard, to try to better understand the patterns we are seeing and what correlates with “safe” reopenings. I hope that more schools and districts will see these data, and others, and perhaps start to think about how reopening might work. We do not want to be cavalier or put people at risk. But by not opening, we are putting people at risk, too.

We want to hear what you think about this article. Submit a letter to the editor or write to letters@theatlantic.com.

EXHIBIT U
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

EXCLUSIVE FULL RECORDING: Jewish Leaders Say They Were 'Stabbed in the Back' by Cuomo

H hamodia.com/2020/10/12/exclusive-recording-jewish-leaders-say-stabbed-back-cuomo/

By Reuvain Borchardt

October 12, 2020

NEW YORK -

Monday, October 12, 2020 at 3:35 pm | כ"ד תשרי תשפ"א Updated Friday, October 16, 2020 at 3:58 am



New York Gov. Andrew M. Cuomo at a press conference at the State Capitol on Tuesday, announcing the shutdown of houses of worship in COVID-19 hotspots. (Mike Groll/Office of Gov. Cuomo)

Hamodia has exclusively obtained a full recording of a conference call New York Gov. Andrew Cuomo had with Jewish leaders last Tuesday, in which he said he would limit houses of worship to 50% occupancy in areas seeing a COVID-19 uptick, just hours before a public press conference in which he limited it to 10 attendees.

"The current rule ... in any indoor gathering ... it's 50% of capacity," the governor said. "That's the current law. We have to follow that law. If we don't follow that law then the infection rate gets worse. Then we're gonna have to go back to close down. And nobody

wants to do that. But I need your help in getting the rate down, and the rate will come down, if we follow the rules on the mask and the social distancing and the 50%.”

But just a few hours later, Cuomo announced restrictions on houses of worship to as few as 10 people. Jewish leaders said they felt “stabbed in the back” by what they deemed Cuomo’s duplicity.

Hamodia has exclusively obtained a recording of the full call, below:

“The governor came to us, supposedly to work with us as a friend,” said the participant who shared the recording with *Hamodia*. “And we would have been happy to work with him on the 50% maximum. But then he just stabbed us in the back with this 10-person edict.”

The participant said he also believes the 10-person limit to be illogical.

“There are so many shuls in the community that have a maximum occupancy of hundreds of people,” he said. “How does it make any sense to impose the 10-person maximum on them just the same as a small shul?”

“We feel that the governor is not interested in working with us at all.”

In response to *Hamodia*’s request for comment as to why the governor indicated on the call that he would stick to a 50% limit but then enacted a 10-attendee limit, a Cuomo spokesperson said last week, “We were still in discussions with the epidemiologists at the time and they made clear that preventing large social gatherings is the key to breaking up these clusters.”

Cuomo also conceded that the restrictions may be harsher than necessary to slow the COVID spread.

In response to a question posed on the call by Harav Yaakov Bender, Rosh Hayeshivah of Yeshiva Darchei Torah in Far Rockaway, about why schools must be shuttered completely, rather than taking a more nuanced approach, Cuomo responded, “I’m a hundred percent frank and candid. This is not a highly nuanced, sophisticated response. This is a fear-driven response, you know. This is not a policy being written by a scalpel; this is a policy being cut by a hatchet. It’s just very blunt. I didn’t propose this, you know; it was proposed by the Mayor [Bill de Blasio] in the City. I’m trying to sharpen it and make it better. But it’s out of fear. People see the numbers going up – ‘Close everything! Close everything!’ It’s not the best way to do it, but it is a fear-driven response. The virus scares people. Hopefully, we get the numbers down in the zip codes, the anxiety comes down, and then we can have a smarter, more-tailored approach.

“Your point is right: why close every school? Why don’t you test the schools and close the ones that have a problem? I know, but, first, I don’t know that we have the resources to do that now. But I can tell you honestly, the fear is too high to do anything other than, ‘Let’s do everything we can to get the infection rate down now, close the doors, close the windows.’ That’s where we are.”

Cuomo went on to say, “I’m sorry, rabbi, that you’re going through it. You’re right. This is a difficult period. A lot of it, you could say there’s a better way to do this. I know. But we’re dealing with emotion and fear as much as anything. And I’ll tell you, its New York City, we have a real problem with fear and anxiety, and people losing confidence in the city, and who’s moving out, and who’s afraid. So it is a blunt policy, I agree with you, but at this point I don’t think that we can do anything more sophisticated. Hopefully, we get it under control, it’s a few weeks, people take a deep breath, and then we can have a more intelligent, sophisticated policy.”

—

rborchardt@hamodia.com

Updated Friday, October 16, 2020 at 3:58 am .

EXHIBIT V
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

Over \$150,000 in Fines Issued on First Weekend of New N.Y.C. Lockdown

At least five houses of worship were given a summons in the neighborhoods where the coronavirus infection rates are the highest.



By Ali Watkins

Published Oct. 11, 2020 Updated Oct. 13, 2020

Authorities cracked down this weekend on some of the city's coronavirus hot spots, issuing more than 60 summonses and tens of thousands of dollars in fines to people, businesses and houses of worship that did not follow newly imposed restrictions on gatherings or mask-wearing and social-distancing requirements.

Among those issued a summons by the New York City sheriff were a restaurant and at least five houses of worship in the city's "red zones," where coronavirus infection rates are the highest. Each of those locations was given a summons that could result in up to \$15,000 in fines, said Sheriff Joseph Fucito.

In total, officials issued 62 tickets and more than \$150,000 in fines during the first weekend the new restrictions were in effect, the New York City government Twitter account said on Sunday.

The city is wrestling with its most acute pandemic crisis since the virus first swept through the five boroughs in March. Since mid-August, city and state officials say large gatherings and lax social distancing have caused a surge in new cases in pockets of Brooklyn and Queens, many of them in Orthodox Jewish neighborhoods. The spike prompted Gov. Andrew M. Cuomo to issue new restrictions on large gatherings and nonessential businesses in certain parts of the city.

The moment has set an already anxious city on edge, particularly as doctors, experts and health officials express growing concern about a second wave of the virus this winter. It has also underscored the challenges city officials will face as they try to quash emerging hot spots in small communities before the virus can spread into the rest of the city.

One of the Orthodox Jewish men who led protests against the restrictions, Heshy Tischler, was taken into custody by the police department's warrants squad Sunday night, a police official said. Mr. Tischler, a talk radio personality, is expected to be charged with inciting a riot and unlawful imprisonment in connection with an assault on a Jewish journalist, Jacob Kornbluh, during a protest last week, the police said.

When Mr. Cuomo announced a new executive order imposing the restrictions last week, some religious leaders expressed staunch opposition, as case numbers continued climbing in pockets of Brooklyn and Queens that are home to large populations of Orthodox Jews.

Latest Updates: The Coronavirus Outbreak >

- 6h ago [Senate Republicans push narrow stimulus bills as Pelosi and Mnuchin resume talks.](#)
- 8h ago [A frozen yogurt shop in Colorado offered maskless customers a 10 percent discount. Uproar ensued.](#)
- 10h ago [An infection at Pope Francis' residence adds to concerns for his safety.](#)

More live coverage: **Markets**

The Orthodox Jewish community was devastated by the coronavirus in the spring, when local officials and ultra-Orthodox news organizations said hundreds of people might have died, including beloved religious leaders.

The new restrictions are the most significant setback yet in the city's recovery, rolling back some of the successful reopenings that much of New York has embraced since the most restrictive early days of the pandemic this spring.

According to Mr. Cuomo's executive order, in neighborhoods with the highest infection rates — or "red zones" — houses of worship are limited to 25 percent capacity or a maximum of 10 people. Elsewhere, where rates are lower but still alarming, "orange zones" are limited to 33 percent capacity and "yellow zones" to 50 percent capacity.

CORONAVIRUS SCHOOLS BRIEFING: *It's back to school — or is it?*

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"I understand the desire to hold large religious ceremonies. I understand how important it is to their culture and to their religion," Mr. Cuomo said on a phone call with reporters Sunday. "I also understand that it, as a matter of fact, jeopardizes human life."

The governor urged rabbis and other Jewish leaders to encourage their congregants to stay home amid reports that many synagogues had openly defied the state's order and held services in person. Jewish teaching, Mr. Cuomo said, allows religious ceremonies to be postponed for matters of health and safety.

"The likelihood is the virus will spread," he said.

While the positivity rate in the state's 20 "red zone" neighborhoods was 5.7 percent, the positivity rate across the rest of New York State was less than 1 percent, with those clusters excluded.

Mr. Cuomo's order on Tuesday, which came during the Jewish holiday of Sukkot and right before Simhat Torah, spurred immediate backlash in the city's Orthodox Jewish neighborhoods, where religious leaders accused Mr. Cuomo and Mayor Bill de Blasio of targeting religious minorities.

A national Orthodox organization filed a lawsuit in federal court challenging the constitutionality of the new rules. Protests took place in the Borough Park neighborhood of Brooklyn, where hundreds of demonstrators — most of them Orthodox men, most not wearing masks — burned masks in the street.

But on Friday, a federal court ruled the new state rules could move forward, citing officials' responsibility to keep "all New Yorkers" safe.

"How can we ignore the compelling state interest in protecting the health and life of all New Yorkers?" said Judge Kiyo A. Matsumoto of Federal District Court in Brooklyn.

The Catholic Diocese of Brooklyn filed a separate lawsuit objecting to the new restrictions, which it said would force several churches in the borough to close. A judge in that case also ruled that the governor's order could move forward.

The Sheriff's Office declined to say if the houses of worship it cited this weekend were churches, synagogues, mosques or other religious institutions.

The office also broke up an illegal rave in Cunningham Park, in Queens, where more than 110 people had gathered and flouted city regulations. The organizers of the event were cited and charged with health code violations, Sheriff Fucito said.

Sheriff Fucito, whose office is one of a handful of city agencies that are responsible for enforcing the new rules, said his agents have rarely cited individuals if they comply with requests to put on masks, or practice better social distancing.

"If they put a mask on, we don't write a ticket for that," he said. Most citations written by his office, he said, involve multiple violations or brazen disregard of city rules.

The protests among the Orthodox community appeared to have tempered over the weekend, with no major demonstrations taking place.

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Testing

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RATE OF POSITIVE TESTS IN THE US AND STATES OVER TIME

How Much Of The Disease Are We Finding Through Tests?

This graph shows the total daily number of virus tests conducted in each state and of those tests, how many were positive each day. The trend line in blue shows the average percentage of tests that were positive over the last 7 days. The rate of positivity is an important indicator because it can provide insights into whether a community is conducting enough testing to find cases. If a community's positivity is high, it suggests that that community may largely be testing the sickest patients and possibly missing milder or asymptomatic cases. A lower positivity may indicate that a community is including in its testing patients with milder or no symptoms. The WHO has said that in countries that have conducted extensive testing for COVID-19, should remain at 5% or lower for at least 14 days.

This initiative relies upon publicly available data from multiple sources. States are not consistent in how and when they release and update their data, and some may even retroactively change the numbers they report. This can affect the percentages you see presented in these data visualizations. We are taking steps to account for these irregularities in how we present the information, but it is important to understand the full context behind these data.

How we calculate positivity

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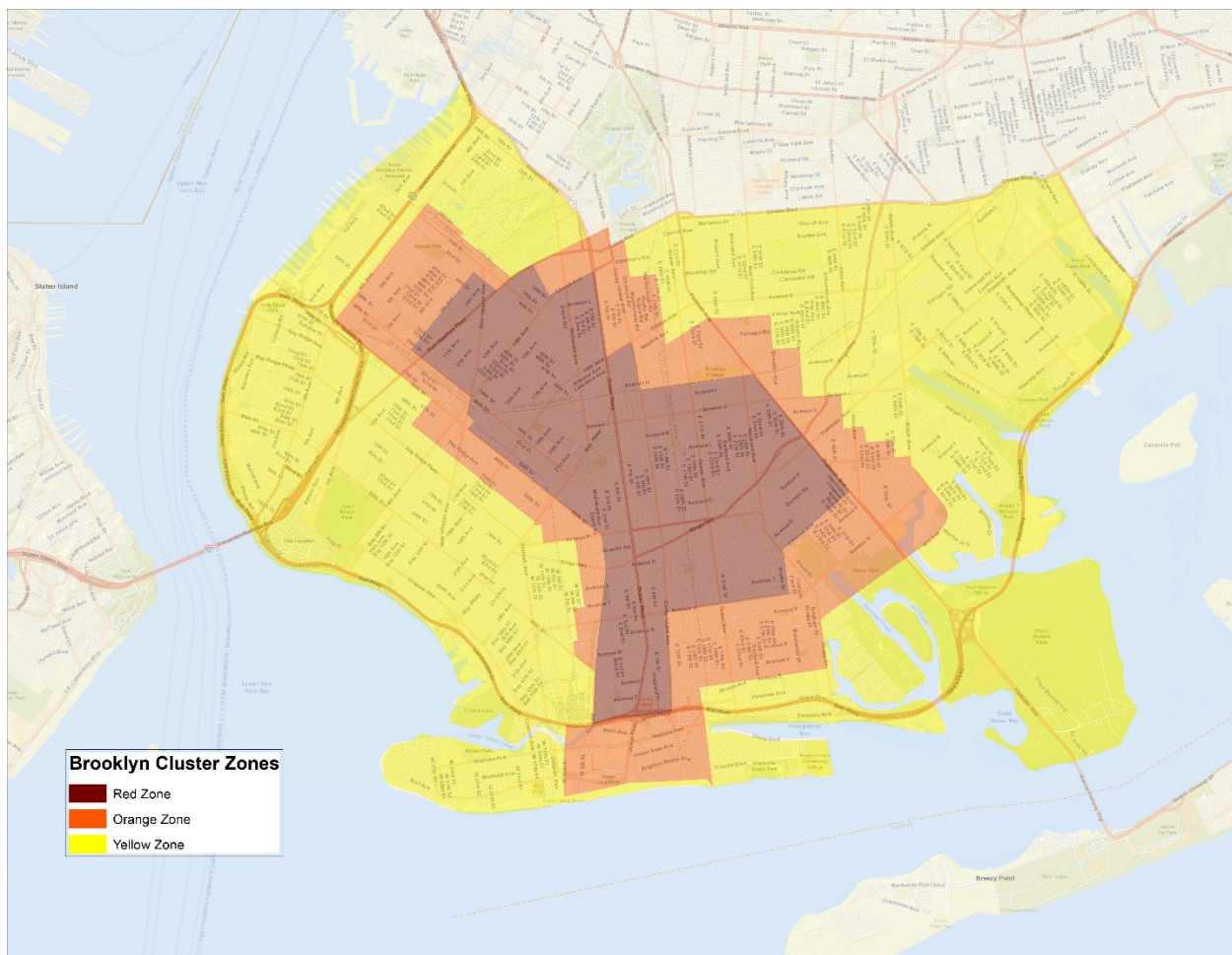
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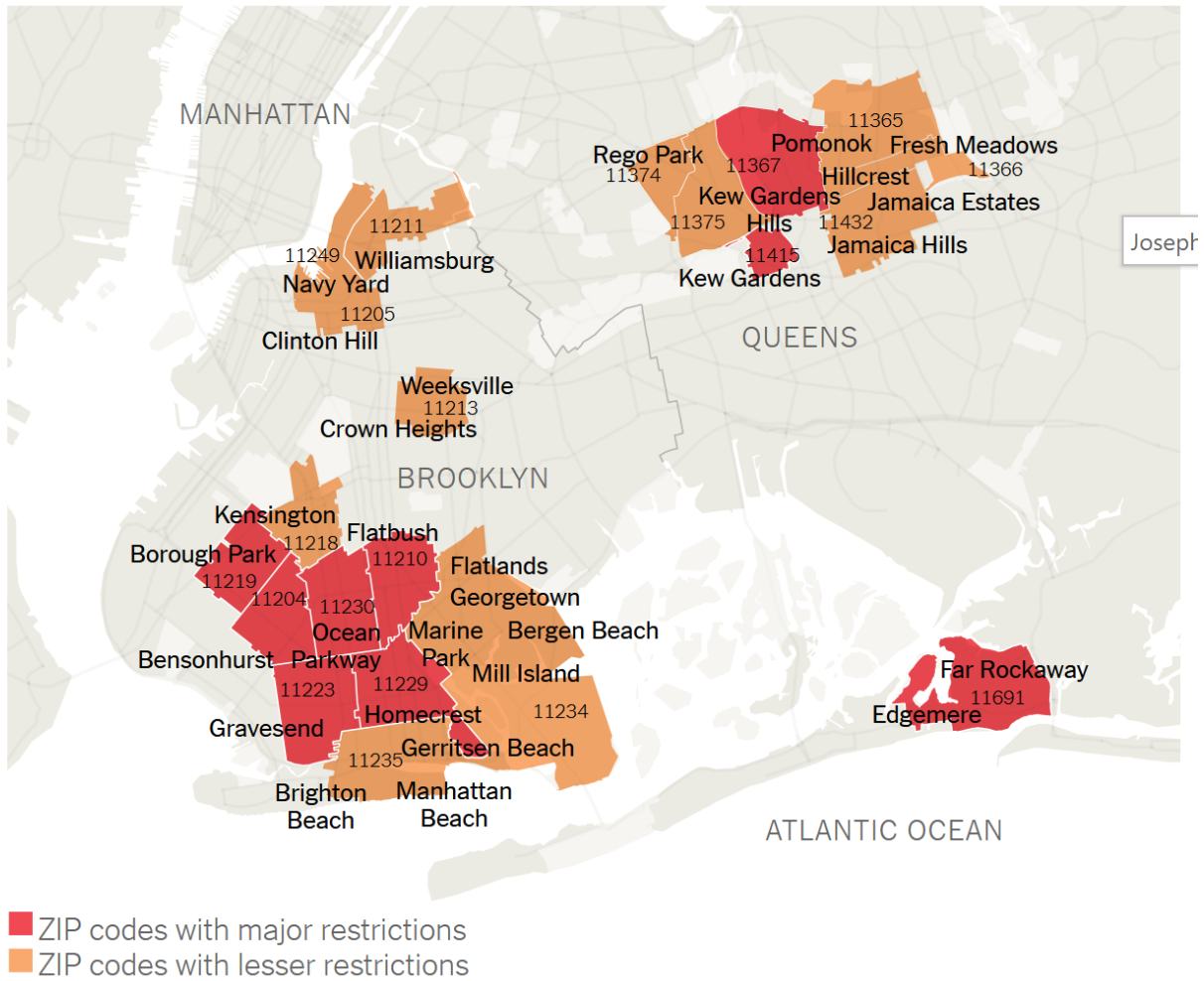
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How we calculate positivity

EXHIBIT X
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ERIC C. RASSBACH
(EXHIBIT 1)



Areas With New Restrictions



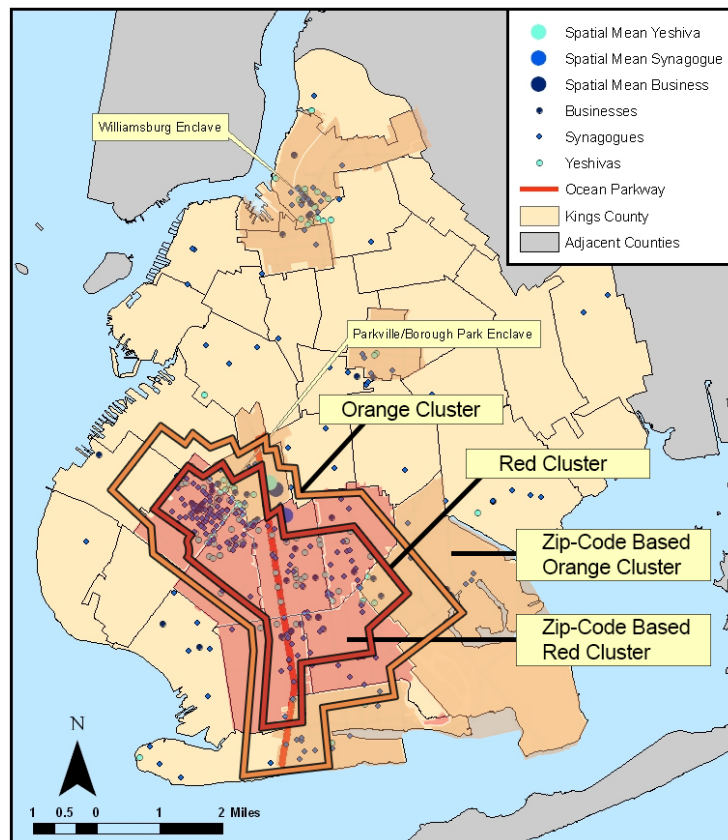


EXHIBIT Y
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

New York State announces 'micro-cluster strategy' to tackle COVID-19 hotspots

[wgrz.com/article/news/health/coronavirus/cluster-action-initiative-will-become-more-specific/71-cf1e7e41-850c-48c0-8887-82c610258d2a](https://www.wgrz.com/article/news/health/coronavirus/cluster-action-initiative-will-become-more-specific/71-cf1e7e41-850c-48c0-8887-82c610258d2a)

Coronavirus

The governor says New York State will now be tracing COVID-19 clusters down to specific areas across the state, as precise as "block by block."



Credit: Kevin P. Coughlin/Office of Governor Andrew Cuomo

October 17, 2020--New York City--Governor Andrew M. Cuomo today announced that movie theaters outside of New York City can reopen at 25 percent capacity under state guidance starting October 23. No more than 50 people are allowed in front of each screen in each movie theater at once. Theaters can only open outside of New York City in counties that have COVID-19 positivity rates of less than 2 percent on a 14-day average and do not have any cluster zones. Theaters will be subject to rigorous state guidance and enforcement.(Kevin P. Coughlin / Office of Governor Andrew M. Cuomo)

ALBANY, N.Y. — New York Governor Andrew Cuomo announced a new change to the state's recently announced Cluster Action Initiative on Saturday.

The governor says New York State will now be tracing COVID-19 clusters down to specific areas across the state, as precise as "block by block." The state calls this "micro-cluster targeting."

The new change, the governor says, will require more testing, as well as a more targeted and responsive approach. However, it will allow less disruption to businesses, as the data can be used to determine more specific cluster zones. Then, responses under the Cluster Action Initiative can be applied to that specific area, rather than a broader area.

"We now have more sophistication because we've been at it for seven months," Cuomo said. "So rather than looking at COVID-19 data on the state level, regional level, county level or even neighborhood level, we are now going to analyze it on the block by block level."

"The micro-cluster strategy is not just to calibrate the state or the region, but to calibrate just those specific geographic areas. Target it and target your strategy down to that level of activity. It requires more testing, more targeted testing, and then you have to be responsive to the situations in that specific locality with mitigation measures. It has the advantage of causing less disruption."

Cuomo added that he plans to continue this approach until a vaccine is available.

New York broke a new testing record yesterday, with over 159,000 tests reported.

We do more testing than any other state in the country.

For context, the entire country of France reported just under 200,000 tests yesterday. <https://t.co/wauPN99maz>

— Andrew Cuomo (@NYGovCuomo) October 17, 2020

The governor also announced Saturday that New York State hit a new record-high on Friday: Cuomo says that 159,972 COVID-19 tests were conducted statewide.

On Friday, the percent positive rate of COVID-19 tests was 1.11 percent, including the state's red-zone areas. The state calculates that 1.02 percent of the tests came back positive without including the red-zones.

Meanwhile, the rate of positive tests in Western New York was the same as Thursday at 1.4 percent.

Hospitalizations have increased statewide by 11 to 929. There were 139 patients newly admitted and 118 discharged on Friday. There are currently 195 people in ICUs statewide, and of those patients, 103 are intubated.

Nine people died in New York State on Friday due to the virus, including an individual from Cattaraugus, and one person who was not a resident of New York State. Thus far, 25,637 people have died in New York due to the virus.

EXHIBIT Z
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

In face of COVID-19 spike, New York Orthodox Jews take holiday prayers outside

 [reuters.com/article/us-health-coronavirus-new-york-judaism-idUSKBN26R34S](https://www.reuters.com/article/us-health-coronavirus-new-york-judaism-idUSKBN26R34S)

AMERS

Updated

By Gabriella Borter

5 Min Read

MONSEY, N.Y. (Reuters) - Standing at least six feet apart and wearing skullcaps, prayer shawls and face masks, about two dozen Orthodox Jewish men pored over texts this week on a lawn in New York's Monsey suburb, filling a quiet morning with the soft hum of Hebrew prayer.

Men read from the Torah as Orthodox Jews gather for "Hoshanot prayers" as part of their Sukkot observance on a neighborhood lawn to avoid over-crowding at an indoor synagogue, following the outbreak of the coronavirus disease (COVID-19) in the New York City suburb of Monsey, New York, U.S., October 5, 2020. REUTERS/Mike Segar

Rather than crowd into a synagogue, the group has congregated outside a neighbor's house each day to observe the week-long festival of Sukkot, one of many Jewish holidays this time of year coinciding with a sharp rise in coronavirus cases among members of this insular religious community.

Rockland County, encompassing Monsey and lying about 40 miles (64 km) north of New York City, is one of the state's most troubled hotspots. Since March, nearly 700 of its people have died from COVID-19, more than in 15 individual U.S. states, according to a Reuters tally.

A recent spike in infections after a summer lull has been a somber reminder that the virus is still spreading, especially in places where large groups gather for religious or other reasons without adhering to public health guidance.

"The community had such terrible losses in the early days, and the last thing we need is to have such things happen again," said Rabbi Asher Bush of Congregation Ahavat Yisrael in the Rockland village of Wesley Hills. "That would be utter, utter catastrophe."

The open-air service is one of many adjustments that Orthodox Jews throughout the world have had to make in their traditions. The High Holiday season that includes the Jewish New Year and Yom Kippur, the Day of Atonement, is typically marked by mass prayer

services, big family meals and travel. The celebrations traditionally feature group dancing. All of that now is forbidden because of the virus.

Two Rockland zip codes had positive coronavirus test rates top 15% over the weekend, compared to the state average of just over 1%, according to New York Governor Andrew Cuomo.

The viral spread has been especially acute in the Orthodox Jewish enclaves of Rockland County, as well as in New York's Orange County and Brooklyn, areas where the governor says social distancing and mask-wearing have not been adequately enforced.

A drop in infection rates prompted some people - including, but not limited to, Orthodox Jews - to become more lax about mask-wearing and social distancing, several members of the Orthodox Jewish community told Reuters.

Slideshow (4 images)

"It's critically important for everybody to buy into this," said Aaron Glatt, an associate rabbi at an Orthodox congregation in Woodmere, New York, and chief of infectious diseases at Mount Sinai South Nassau.

Tuvia Rotberg, a bookstore owner, hosted the outdoor Sukkot services in a white, open-air tent. He launched outdoor services for daily and Sabbath prayers just as the pandemic gripped New York in March and has kept them up, even though synagogues now are open with limited capacity.

'PEOPLE ARE TRYING'

On Tuesday, Cuomo planned to meet with Orthodox Jewish leaders in Rockland and Orange counties and Brooklyn, after announcing the state would enforce mask mandates and social-distancing laws in those areas.

This week he ordered that schools be closed in 11 New York City neighborhoods where a high concentration of Orthodox Jews live. He also said he might enforce a new round of business and school shutdowns in Rockland County.

"I have to say to the Orthodox community tomorrow, if you're not willing to live with these rules, then I'm going to close the synagogues," Cuomo told reporters on Monday.

Health officials in Orange County on Tuesday shut down schools in the Village of Kiryas Joel and the Town of Palm Tree, which have large Orthodox Jewish populations, because of a burgeoning outbreak, News 12 Hudson Valley reported.

Rabbi Bush of Wesley Hills said his synagogue has been diligent about enforcing social distancing and masks, although he recently attended a service at another synagogue where other worshipers gathered in a tent outdoors without masks.

“There is a very large gamut of how different congregations are conducting themselves,” he said.

But if there was nonchalance at the end of the summer, recent hospitalizations of friends and family have forced many Orthodox Jews to acknowledge the severity of the situation, community members told Reuters.

“People are trying,” said Shoshana Bernstein, a communications professional in Monsey whose family has been attending outdoor services during Sukkot. “And if they weren’t doing the right thing last week, then more people are doing the right thing this week.”

Reporting by Gabriella Borter; Editing by Howard Goller

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for-phone-onlyfor-tablet-portrait-upfor-tablet-landscape-upfor-desktop-upfor-wide-desktop-up

EXHIBIT AA
TO DECLARATION OF
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Tweet



Mayor Bill de Blasio 
@NYCMayor



My message to the Jewish community, and all communities, is this simple: the time for warnings has passed. I have instructed the NYPD to proceed immediately to summons or even arrest those who gather in large groups. This is about stopping this disease and saving lives. Period.

9:35 PM · Apr 28, 2020 · Twitter for iPhone

9.9K Retweets **19K** Quote Tweets **31.8K** Likes



EXHIBIT BB
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

2,500 Mourners Jam a Hasidic Funeral, Creating a Flash Point for de Blasio

The event showed the challenges that officials have faced in addressing the flouting of social distancing in close-knit ultra-Orthodox neighborhoods.



By **Liam Stack**

Published April 29, 2020 Updated Sept. 25, 2020

Soon after a revered Hasidic rabbi died of the coronavirus in Brooklyn on Tuesday, his fellow congregants informed the Police Department of an unexpected decision: Despite the coronavirus restrictions now in place, they would hold a public funeral.

The local police precinct did not stand in their way, a testament to the Hasidic community's influence in the Williamsburg neighborhood. By 3:30 p.m., police officers began erecting barricades, expecting a small number of mourners to show up. Loudspeakers were put up to help mourners hear while keeping their distance.

But by 7:30 p.m., an estimated 2,500 ultra-Orthodox Jewish men had arrived to mourn Rabbi Chaim Mertz, packing together shoulder-to-shoulder on the street and on the steps of brownstones, clearly violating social distancing guidelines and turning the funeral into one of the most fraught events of the virus crisis for Mayor Bill de Blasio.

Police began to disperse the mourners, some of whom were not wearing masks. Word of the gathering soon reached City Hall, where the mayor decided to go to Brooklyn to oversee the dispersal himself.

After the crowd had been broken up, Mr. de Blasio lashed out on Twitter at “the Jewish community, and all communities,” saying he had instructed the Police Department “to proceed immediately to summons or even arrest those who gather in large groups.”

Mr. de Blasio spent much of Wednesday on the defensive over his handling of the funeral and his use of the phrase “Jewish community” in his public criticism of the mourners. But the episode also underscored the challenges that officials have faced in addressing the flouting of social distancing rules in insular and close-knit Hasidic neighborhoods around the New York region.

People in these neighborhoods have long voiced distrust of state and local authorities, even as they have been able to band together to exert political power. Hasidic Jews have been disproportionately affected by the pandemic, which has killed hundreds in their community, including influential religious leaders.

The challenge of monitoring gatherings may become even more daunting as the weather gets warmer and more New Yorkers are tempted to leave their homes for the first time in weeks, taking long walks or meeting in parks — even as the pandemic appears to have no clear end in sight.

On Wednesday, Mr. de Blasio defended his remarks at a news conference and said he “spoke last night out of passion.”

“People’s lives were in danger before my eyes and I was not going to tolerate it,” he told reporters. “I regret if the way I said it in any way gave people a feeling of being treated the wrong way, that was not my intention. It was said with love, but it was tough love, it was anger and frustration.”

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percent discount. Uproar ensued.

11h ago [An infection at Pope Francis' residence adds to concerns for his safety.](#)

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Jonathan Greenblatt, the head of the Anti-Defamation League, said the mayor's remarks were unfair to the more than one million Jewish people who live in New York City. "The few who don't social distance should be called out — but generalizing against the whole population is outrageous especially when so many are scapegoating Jews," he wrote on Twitter. "This erodes the very unity our city needs now more than ever."

Jacob Mertz, a spokesman for the rabbi's synagogue, Kahal Tolath Yakov, said in a statement that it had tried to organize the funeral to stay within social distancing guidelines but "unfortunately, this didn't pan out, and NYPD had to disperse the crowds."

"We came up with a plan to have many streets closed, so that mourners can participate and walk the coffin while following the social distancing rules and wearing masks," Mr. Mertz said in a statement. "New Yorkers walk the streets daily, thus, a funeral — we thought — shouldn't be different, as long the rules are followed."

Mr. de Blasio has longstanding ties to the ultra-Orthodox Jewish community, which supported him as he rose through the political ranks from the City Council, then as public advocate and as mayor.

When Mr. de Blasio needed donations to his flailing presidential campaign to qualify for the democratic debates, he turned to Orthodox donors.

CORONAVIRUS SCHOOLS BRIEFING: *It's back to school — or is it?*

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But the mayor has run into frequent political headaches related to public health issues in the ultra-Orthodox community, including the measles outbreak and his policy on a circumcision ritual, metzitzah b'peh, that led to multiple children becoming infected with herpes.

Rather than restrict the practice, the mayor instructed parents to ask the mohel performing the rite whether he was infected with herpes.

"The mayor has boxed himself into a corner with the Orthodox community to the point that he has had trouble when it comes to policing necessary regulations that are designed to prevent the spread of communicable diseases," said Menashe Shapiro, a political consultant and founder of Shapiro Consulting Group. "Whether it's measles, coronavirus or the bris fiasco, he has demonstrated a tremendous weak spot with this community."

Most of the Orthodox Jewish leaders who have died during the pandemic have not had big crowds at their funerals, and religious leaders say those who violate stay-at-home guidelines represent a small portion of their community.

Jewish leaders and groups reacted with outrage to Mr. de Blasio's remarks about the funeral, which took place on the same day as a military flyover by pilots from the Navy's Blue Angels and the Air Force's Thunderbirds, drawing throngs of New Yorkers to watch from parks and sidewalks.

Shia Katz, who attended the funeral, said loudspeakers and Police Department barricades were set up to help control the crowd, which was mostly composed of young men because many older people stayed home out of fear of the virus.

Mr. Katz said that the speakers were not turned on, however, causing the people already assembled on the street to crowd closer together. The gathering quickly turned into "chaos," he said.

"They're not bad people, they're lost people," Mr. Katz said. He said gathering to mourn was "just as important as the fighter jets in the sky."

At the news conference on Wednesday, Mr. de Blasio said that mourners had to realize they were risking the health, and possibly even the lives, of those around them.

“We have to understand what it means to hold a large gathering in New York City today,” he said. “It means unfortunately that people who go to that gathering, some will be sick with this disease. That’s just a fact. We know this. Some will spread the disease to others. People as a result will die.”

At the same news conference, Dermot F. Shea, the New York City police commissioner, said the Police Department had dispatched officers to monitor the funeral on Tuesday alongside members of the neighborhood Hasidic safety patrol, known as shomrim.

The department had thought it was “unlikely” a large crowd would gather. A senior law enforcement official said on Wednesday that no more than a hundred mourners had been expected.

“We didn’t know it would be this size gathering,” the official said. “Obviously this took us aback.”

The virus has strained the Police Department, which has seen nearly 20 percent of its uniformed ranks sidelined by the pandemic. Thirty-seven officers and civilian members of the department have died of Covid-19, the disease caused by the coronavirus.

Twelve summonses were issued at the funeral for failure to disperse, out of 146 summonses that have been issued citywide for similar violations of social distancing. Mr. Shea said Wednesday that the department was “beyond, at this point, asking people to comply” with public health guidelines.

When people gather in large groups, he said, they are “putting members of my department at risk.”

That concern was shared by others, like Yvonne Moore, a home health aide who encountered the funeral during her commute home to Canarsie on Tuesday night. She wove her way through the crowd in a mask and gloves, which she said many of the mourners around her did not have.

When she got home, she said, she struggled to reconcile the idea of mourning a loss in a way that risked exposing others to the same kind of death. She said she had never seen such a large crowd in more than a decade working in South Williamsburg.

“I’ve seen weddings, I’ve seen funerals, this took the cake,” she said. “I was saying, ‘Oh my God,’ it was so crowded.”

Jeffery C. Mays, Edgar Sandoval, Nate Schweber and Ashley Southall contributed reporting.

Liam Stack is a general assignment reporter. He was previously a political reporter based in New York and a Middle East correspondent based in Cairo. @liamstack

A version of this article appears in print on , Section A, Page 1 of the New York edition with the headline: Packing Street, Rites for Rabbi Anger de Blasio

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Investigate Mayor de Blasio | Opinion

N [newsweek.com/investigate-mayor-de-blasio-opinion-1512158](https://www.newsweek.com/investigate-mayor-de-blasio-opinion-1512158)

June 19, 2020

Opinion

Melissa Langsam Braunstein

On 6/19/20 at 11:30 AM EDT

Opinion Bill De Blasio Mayor Bill de Blasio Jews New York City

On Thursday, New York City Mayor Bill de Blasio announced that city parks will reopen on Monday. This is a sharp about-face for a mayor who opposed reopening parks on Tuesday and wouldn't commit to "Phase II" reopening on Wednesday. New Yorkers should likely thank Brooklyn's Orthodox Jews for the change.



City park closures have inconvenienced families citywide, posing health challenges for kids who need fresh air and playtime. But it's Brooklyn's Orthodox Jews who've been adamant about the urgency of reopening parks, not least because they've seen their neighborhood playgrounds locked and welded shut.

Public parks have become the latest flash point in de Blasio's ongoing struggle with his Jewish constituents. As readers may recall, the mayor publicly blasted Jewish New Yorkers for a Williamsburg funeral in late April. In mid-May, he had the NYPD shut down a yeshiva and a small children's carnival. In June, the NYPD chased Hasidic families out of Brooklyn parks, even as large crowds of New Yorkers protested nearby.

NYC Parks staff welded shut the entrance to Williamsburg's Middleton Playground on Monday. A department spokeswoman explained: "In recent weeks, people have broken the locks and chains at this playground and breached the site multiple times...we plan to unweld this entrance today and replace the locks and chains." Of course, local residents eliminated that lock, too.

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Notably, the spokeswoman added, "All playgrounds are closed across the city to keep our children safe." The reality has been more nuanced, though. Brooklyn's McCarron Park and Dyker Beach Park have been open, for example, and Councilman Joe Borelli told me that no playgrounds in his Staten Island district have been locked.

When Mayor de Blasio disregarded Sunday's public call from State Senator Simcha Felder, New York Assemblyman Simcha Eichenstein and City Councilman Kalman Yeger to immediately reopen parks, the trio opened two Brooklyn parks themselves. (Yeger opened a third with Americans Against Antisemitism founder Dov Hikind.)

The three Brooklyn lawmakers asked, "With everything going on in the world, why is our mayor intent on making criminals of mothers and children in need of a safe space to play? If they lock these gates, we will cut them open again tomorrow, because we serve the people. Who do you serve, Mr. Mayor?"

The mayor responded by announcing, "We're not going to allow people to take the law into their own hands." The NYPD, for its part, questioned the three lawmakers at Borough Park's Dome Park after reportedly receiving a "call for trespassing."

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City Councilman Joe Borelli messaged, "How can there be such a plain double standard between protestors gathering in massive numbers in parks and a few little Jewish kids hoping to go down the slide?"

Super strict coronavirus lockdown measures would have made better sense earlier on, especially if they were universally applied. Only they *haven't* been, whether for the Blue Angels flyover, Central Park sunbathers or masking violations in general.



New York City Mayor Bill de Blasio John Lamparski/Getty Images

Extra cautious measures also no longer compute. After tens of thousands, including the maskless mayor, spent three weeks marching and rallying for justice in close proximity, it's hard to justify locking kids out of playgrounds.

This episode underscores that de Blasio's New York City has enforced two sets of rules for coronavirus restrictions. However, a functional democracy requires one set for everyone. Since New York's attorney general hasn't acted to correct that, the federal government should.

Brooke Goldstein, executive director of The Lawfare Project, emailed that both the FBI and the Department of Justice's Office of Civil Rights have the authority to investigate, and could do so simultaneously. "Enforcing the law in an unequal way—issuing summonses or complaints to the Jewish community and other minority communities while issuing face masks or ignoring the violations of non-minority New Yorkers is a clear example of discriminatory policing that the [Department of Justice] needs to investigate and address."

Goldstein observed, "Unequal, targeted, enforcement of the law fosters anti-Semitism and racism, and degrades the egalitarian nature of our society." She added, "The American public cannot stay silent when it sees the law being applied unequally. People have the moral obligation to come forward and report these incidents, and we as a society must address issues of misconduct by officials acting under the 'color of law.'" Toward that end, the Department of Justice helpfully introduced a new unified portal for reporting civil rights violations at civilrights.justice.gov on Monday.

So perhaps the next twist in this story should involve more New Yorkers adopting the civil disobedient spirit blooming in Brooklyn. Don't comply with injustice, and don't accept Mayor de Blasio's discrimination. Report it.

Melissa Langsam Braunstein, a former U.S. State Department speechwriter, is now an independent writer in the Washington, D.C., area.

The views expressed in this article are the writer's own.

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EXHIBIT DD
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Cuomo's Restrictions on Synagogues in Virus Hot Spots Can Go Forward

"How can we ignore the compelling state interest in protecting the health and life of all New Yorkers?" asked a federal judge in Brooklyn.

By **Nicole Hong** and **Liam Stack**

Oct. 9, 2020

A federal judge on Friday allowed Gov. Andrew M. Cuomo to move forward with new restrictions on gatherings at synagogues and other houses of worships, finding that the rules did not violate the free exercise of religion for Orthodox Jews.

The ruling in federal court in Brooklyn came after Agudath Israel of America, a national Orthodox Jewish organization, sued Mr. Cuomo this week over his latest executive order detailing an array of new restrictions to address rising coronavirus cases in neighborhoods with large populations of Orthodox Jews.

After an emergency hearing on Friday, the judge declined to temporarily block Mr. Cuomo's executive order ahead of three Jewish holidays over the weekend. She said she sympathized with the order's impact on the Orthodox Jewish community, but rejected the argument that Mr. Cuomo had unconstitutionally targeted a religious minority.

"How can we ignore the compelling state interest in protecting the health and life of all New Yorkers?" said Judge Kiyo A. Matsumoto of Federal District Court in Brooklyn.

When announcing the executive order, Mr. Cuomo set new capacity limits for houses of worship. In zones with the highest infection rates, houses of worship would be limited to 25 percent capacity or a maximum of 10 people, while those in a less severe hot spot could have 50 percent capacity.

Judge Matsumoto, noting that the order also shut down nonessential businesses and schools in the hardest-hit zones, found that the new rules were not motivated by an intention to discriminate against Orthodox Jews. The religious burdens caused by the restrictions were outweighed by the need to stop "the most significant health crisis in living memory," she said.

Lawyers for Agudath Israel, an umbrella group with affiliated synagogues around the country, had argued that the new rules were unconstitutional. Orthodox Jews are disproportionately affected, they said, because they are prohibited from driving during religious holidays and cannot travel to synagogues in neighborhoods with fewer restrictions.

In a tweet after the ruling, Agudath Israel called the decision a "crushing disappointment" while reminding its followers to adhere to health guidelines.

The judge's decision means that Mr. Cuomo can impose the new restrictions, which went into effect on Friday, as the lawsuit progresses. Anyone who violates the order against mass gatherings can be subject to a daily fine of \$15,000.

The Roman Catholic Diocese of Brooklyn filed a similar lawsuit against Mr. Cuomo, arguing that the restrictions would effectively force at least two dozen churches in Brooklyn and Queens to close. After a separate hearing on Friday, a different judge also declined to block the executive order.

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The legal actions underscored the challenge facing New York officials as they try to fight off a second wave of virus infections and navigate a crisis at the intersection of public health, religion and politics. Some areas in New York City had infection rates of around 8 percent, officials said, far higher than the 1 percent rate for the rest of the city.

The restrictions were intended to curb worrisome outbreaks of the coronavirus in Brooklyn, Queens and New York City's northern suburbs, including several areas with large Orthodox populations. Orthodox synagogues have in recent months become scenes of large gatherings of worshipers clustered together, many not wearing face coverings.



Police officers have been handing out masks and urging people to use them and follow social-distancing rules in the neighborhoods affected by the governor's order. James Estrin/The New York Times

"This is the last thing I want to do," Mr. Cuomo said earlier this week. "It's a difficult conversation, and you're right on the line of government intrusion on religion."

Mr. Cuomo's announcement came on the eve of three Jewish holidays this weekend — Hoshana Rabbah, Shemini Atzeret and Simhat Torah.

CORONAVIRUS SCHOOLS BRIEFING: *It's back to school — or is it?*

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Lawyers for the state argued that the restrictions did not unfairly target the Orthodox Jewish community, saying it was not a violation of the Constitution to acknowledge that religious gatherings have a higher risk of spreading the virus.

"The First Amendment's protections do not require that the government ignore reality and common sense," a lawyer for the state wrote in a court filing on Friday.

The lawsuits followed heightened tensions over the new lockdowns, which prompted ultra-Orthodox Jews in the Borough Park neighborhood of Brooklyn this week to protest, light masks on fire and attack at least three people, including two local men accused of disloyalty to the Hasidic community.

A leader of the protests, Heshy Tischler, said on Friday that he would be arrested on Monday on charges of inciting a riot in connection with an incident this week in which Jacob Kornbluh, a reporter for Jewish Insider, was attacked by a crowd during a protest. Mayor Bill de Blasio described video footage of the episode as "disgusting to watch."

A police official, speaking on the condition of anonymity because he was not authorized to discuss the case publicly, confirmed that Mr. Tischler was expected to turn himself in to the authorities on Monday. He could face additional charges if surveillance footage shows that he took part in the assault directly, the official said.

Rabbi Chaim Dovid Zwiebel, executive vice president of Agudath Israel of America, said in an interview on Friday that he was unhappy about the violent protests in Borough Park, but thought the protesters did not represent most members of the ultra-Orthodox community.

Judge Matsumoto's ruling came down roughly two hours before the start of a series of religious holidays during which Orthodox Jews do not use technology, which meant there was not enough time for leaders to strategize about next steps, Rabbi Zwiebel said.

On Friday night, the neighborhood's streets were quiet.

Around the corner from one synagogue, Congregation Shomrei Shabbos Anshei Sfard, a group of perhaps 10 men — none wearing masks — could be seen through the doorway of a sukkah standing close together near a table with open prayer books. At one point, the sound of singing was audible but faint from inside the building.

Men, some of them in masks, began to trickle out onto 13th Avenue from the synagogue's front door after 8 p.m.

Moshe Friedman, 25, was among those who were masked. He said he was there because his home congregation had required advance sign-up and was limiting attendance to 20 people. He guessed that Shomrei Shabbos had allowed closer to 50 people inside.

Mr. Friedman said the celebrations had been muted all week compared with normal years.

"We're not really worshiping because of the lockdown," he said. "There's less dancing and singing."

The governor's new restrictions will affect hundreds of synagogues and tens of thousands of Orthodox Jews in New York, according to the lawsuit. The plaintiffs said that instead of targeting houses of worship, Mr. Cuomo should have focused on enforcing social distancing and other Covid-19 restrictions, including at bars and restaurants.

The rabbis in the lawsuit said their synagogues had already implemented strict protocols in compliance with earlier state mandates, including splitting services into separate gatherings and requiring congregants to wear a mask.

"There is simply no justification for the unwarranted, unnecessary and unconstitutional restrictions imposed this week," lawyers for Agudath Israel wrote.

At one point during Friday's hearing, which was conducted by telephone, more than 700 people had dialed in. Some of them did not mute their phones, turning the hearing into a chaotic two hours, as the arguments were interrupted by occasional screaming, music, burping and shouts of "Trump 2020."

The Orthodox Jewish community was devastated by the coronavirus in the spring, when local leaders and ultra-Orthodox news organizations said hundreds of people might have died, including beloved religious leaders.

But since then, many in the community have failed to wear masks and adhere to other public health guidelines because of what local leaders describe as a mix of denial, misinformation and wishful thinking about herd immunity.

Ultra-Orthodox leaders have scrambled in recent weeks to avert a shutdown, urging their followers to embrace masks and social distancing. Many said they were stunned and outraged by the governor's proposed restrictions on religious gatherings.

Joseph Goldstein, Sean Piccoli, Edgar Sandoval, and Benjamin Weiser contributed reporting.

EXHIBIT EE
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)

NYC Imposes Additional Requirements on Private Schools in Predominantly Jewish Neighborhoods in Queens and Brooklyn

 reason.com/2020/10/01/nyc-imposes-additional-requirements-on-private-schools-in-predominantly-jewish-neighborhoods-in-queens-and-brooklyn/

October 1, 2020

Last week, on the eve of Yom Kippur, I blogged about New York City's plans to impose heightened restrictions on Jewish neighborhoods in New York.

Yesterday, New York Governor Andrew Cuomo, flagged the "20 hotspot Zip Codes" with positive cases (Kings County is Brooklyn).

Almost a quarter of yesterday's positive cases were from just 20 hotspot ZIP codes.

We are targeting these clusters immediately to prevent community spread.

If you live in one of these ZIP codes, treat this seriously.

Wear a mask. Wash your hands often. Get tested.

pic.twitter.com/zjuARAorfb

— Andrew Cuomo (@NYGovCuomo) September 30, 2020

Yesterday, the New York City Commission of Health and Mental Hygiene imposed a series of new restrictions on eight of these zip codes in Brooklyn and Queens. I will list the positivity rate in each zip code, as well as the number of positive tests.

1. Borough Park neighborhood of Brooklyn: 11219 (5%, 12) and 11204 (6%, 13).
2. Midwood neighborhood of Brooklyn: 11210 (4%, 7) and 11230 (8%, 29).
3. Gravesend neighborhood of Brooklyn: 11223 (4%, 11).
4. Sheepshead Bay neighborhood of Brooklyn: 11229 (4%, 11)
5. Kew Gardens neighborhood of Queens: 11415 (this zip code is not listed on Governor Cuomo's tweet)
6. Far Rockaway neighborhood of Queens: 11691 (3%, 7)

All of these zip codes are in predominantly Jewish neighborhoods in Brooklyn and Queens.

The Commissioner **did not** impose restrictions on six neighborhoods in New York that had comparable positivity rates and positive tests:

1. The Marine Basin neighborhood in Brooklyn: 11234 (4%, 10).
2. Two neighborhoods in the Bronx: 10465 (4%, 5) and 10462 (3%, 7).
3. The Inwood neighborhood of Manhattan: 10040 (4%, 7).
4. Two neighborhoods in Staten Island: 10306 (3%, 5) and 10304 (3%, 6). (I grew up very close to these zip codes).

These neighborhoods are not predominantly Jewish.

The restrictions on private schools in this area are very onerous.

All non-public schools in the affected zip codes must comply with the following additional requirements:

- All individuals on the school premises must remain at least 6 feet apart at all times, except: in emergencies or when doing so would create a safety hazard; or when physical barriers are put in place between individuals in accordance with New York State guidance for in-person instruction at pre-k to Grade 12 schools during the COVID-19 public health emergency; and
- Face coverings are required in school buildings at all times, except for individuals who cannot wear a face covering because of developmental, medical or age reasons;
- Coordinating with the Department and the Test + Trace Corps to identify, isolate and prevent the spread of COVID-19; and
- Following the protocols established by the Department for opening and closing classrooms and schools if a student or staff is confirmed with COVID-19, and excluding students and staff who have symptoms or are confirmed with COVID-19 or have been identified as a close contact to someone with COVID-19.

Students, teachers and staff having close contact with confirmed cases of COVID-19 must quarantine for 14 days from such contact, in accordance with the New York State Department of Health's guidelines for precautionary quarantine.

This order shall be effective immediately and remain in effect through the end of the 2020-2021 school year, including any summer school sessions during 2021, or such earlier time as I may indicate....

An attorney in New York told me that if read literally, it is impossible to comply with these rules.

Get the TROs ready.

**EXHIBIT FF
TO DECLARATION OF
ERIC C. RASSBACH
(EXHIBIT 1)**



OCTOBER 6, 2020 Albany, NY

Governor Cuomo Announces New Cluster Action Initiative

Initiative Developed in Consultation with Leading National Public Health Experts—Dr. Noam Ross of EcoHealth Alliance, Dr. Michael Osterholm of the University of Minnesota and Former CDC Director Dr. Tom Frieden

New Initiative Maps Clusters by Density of Cases to Address COVID Hot Spots in Brooklyn, Queens, and Broome, Orange and Rockland Counties

Fines for Sponsors of Mass Gatherings Increased to \$15,000

New Rules and Restrictions in Effect for Minimum of 14 Days

Governor Andrew M. Cuomo today announced a new cluster action initiative to address COVID-19 hot spots that have cropped up in Brooklyn, Queens, and Broome, Orange and Rockland Counties. Working with the top public health experts, New York State developed a science-based approach to attack these clusters and stop any further spread of the virus, including new rules and restrictions directly targeted to areas with the highest concentration of COVID cases and the surrounding communities. The new rules will be in effect for a minimum of 14 days.

The plan was developed in consultation with national public health experts including Dr. Noam Ross of EcoHealth Alliance, Dr. Michael Osterholm of the University of Minnesota and former CDC Director Dr. Tom Frieden.

"A cluster is just that - it's a cluster of cases, a high density of cases, and it seeps and grows from that cluster almost in concentric circles. Drop a pebble into the pond, the pebble goes in, then there's one ring, two rings, three rings, and the rings continue across the pond. When you see the cluster, you have to stop it at that point," **Governor Cuomo said**. "Our strategy is to crush the cluster and stop the spread, and we're announcing a special initiative to do just that. Step one, you take the most dramatic action within the cluster itself where you have the highest density of cases. Understanding that the people in that cluster interface with the surrounding communities, take additional action in the communities surrounding the cluster. Then as a precautionary measure, take action in the communities that are outlying that area."

The initiative is composed of three steps:

1. Take dramatic action within the cluster.
2. Take action in the area surrounding the cluster to stop the spread.
3. Take precautionary action in the outlying communities.

The initiative will currently apply to clusters in the following areas:

- Broome County (One Area, Yellow) - Click [Here](#) for Map
- Brooklyn (One Area, Red, Orange and Yellow) - Click [Here](#) for Map
- Orange County (One Area, Red and Yellow) - Click [Here](#) for Map
- Queens (Two Areas, Red, Orange and Yellow) - Click [Here](#) and [Here](#) for Maps
- Rockland County (One Area, Red and Yellow) - Click [Here](#) for Map

The initiative will divide clusters and the areas around them into three categories with successively higher restrictions within each one:

Red Zone — Cluster Itself

- Houses of Worship: 25 percent capacity, 10 people maximum
- Mass Gatherings: Prohibited
- Businesses: Only essential businesses open
- Dining: Takeout only
- Schools: Closed, remote only

Orange Zone — Warning Zone

- Houses of Worship: 33 percent capacity, 25 people maximum
- Mass Gatherings: 10 people maximum, indoor and outdoor
- Businesses: Closing high-risk non-essential businesses, such as gyms and personal care
- Dining: Outdoor dining only, 4 person maximum per table
- Schools: Closed, remote only

Yellow Zone — Precautionary Zone

- Houses of Worship: 50 percent capacity
- Mass Gatherings: 25 people maximum, indoor and outdoor
- Businesses: Open
- Dining: Indoor and outdoor dining, 4 person maximum per table
- Schools: Open with mandatory weekly testing of students and teachers/staff for in-person settings. The New York State Department of Health will establish a percentage of teachers and students/staff who need to be tested by Friday.

The enforcement of the zones will go into effect as soon as tomorrow and no later than Friday.

Governor Cuomo also announced that fines for the sponsors of mass gatherings in violation of state public health rules will be increased to \$15,000.

Contact the Governor's Press Office



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