January 13, 2021

Governor Andrew Cuomo
NYS State Capitol Building
Albany, NY 12224

Mayor Bill de Blasio
City Hall
New York, NY 10007

Dear Governor Cuomo and Mayor de Blasio,

We, members of the COVID-19 New York Working Group\(^1\) and other interested parties, are writing to express our deep concern with your decision to shift responsibility for travel-related quarantine to the Office of New York City Sheriff Joseph Fucito instead of the New York City Test & Trace Corps led by Health + Hospital Corporation and the New York City Department of Health and Mental Hygiene (NYC DOHMH). We are also concerned that the Sheriff’s Office has been charged with enforcement of COVID-19-related restrictions on gatherings in private homes instead of relying on government-supported public health education.

As a coalition of health care professionals and community advocates — reflective of the racial, ethnic, gender, disability, and sexual diversity within impacted communities — we demand that you remove the Sheriff and other law enforcement agencies from the role of enforcing travel and other quarantine provisions and return that responsibility to the Test & Trace Corps of Health + Hospitals and NYC DOHMH. We further demand that law enforcement cease its efforts to break up gatherings in people’s homes and instead work with public health officials and community leaders to come up with effective messages that persuade people not to hold large gatherings in their homes.

On November 24, 2020, Mayor de Blasio announced that the Sheriff’s Office would be informing travelers of quarantine requirements, serving public health orders, and levying $1,000 fines on people who do not comply, in addition to enforcing rules on public gatherings.\(^2\) On December 14, 2020, the New York Times published a story in which the Sheriff is quoted as saying that his office has served public health orders on 80 people who were supposed to be observing a travel quarantine. Another member of the department stated that the Sheriff’s Office is also breaking up gatherings in private homes in addition to serving public health enforcement orders on restaurants, bars, and other public venues. We are also aware of robocalls being placed by the Sheriff’s Office to every traveler who used the COVID-19 travel app. Those individuals receive multiple daily calls that threaten large fines, do not provide science-based advice for maintaining quarantine, and do not accurately describe the quarantine requirements. Perhaps most gallingly, the New York Times article noted that the NYC Sheriff’s Office is engaging in these actions despite the fact that

\(^1\) https://www.covid-19workinggroupnyc.org/

Sheriff Fucito himself “noted that his deputies have not received any specific health care training on how to enforce pandemic restrictions.”

While we understand the importance of the travel quarantine requirements, we believe that it is critical that the messages and support for quarantine be delivered by people trained to do so from a public health perspective and that the messages accurately describe the rules governing quarantine. **This is a role for public health professionals and members of impacted communities, not law enforcement.** Indeed, just as community members have been more effective at convincing their neighbors to wear masks and adhere to social distancing, community members are more likely than law enforcement to convince their neighbors to quarantine after travel and to refrain from large gatherings. We also strongly believe that the messengers should be making live calls in which they have the opportunity to inquire about barriers to effective quarantine and to answer questions that a person might have.

**Our first objection to the Sheriff’s role is that he and his staff are giving out inaccurate information in the robo-calls and, presumably, in their in-person encounters.** The English language robo-call says that the law requires a 14-day quarantine, that quarantine means one must stay away from other people, that one cannot leave the place where one is staying except for an emergency or a medical visit, that one must answer any call from the Sheriff’s Office or open the door of one’s abode if the enforcement unit visits. Finally, it states that failure to follow this law can result in a “very large fine.”

Executive Order 205.2 defers to the state Department of Health (DOH) to define quarantine, and neither the Executive Order nor DOH defines quarantine as “staying away from all other people,” particularly in the case of people who are returning to a home where they live with others, though going to an isolation hotel is an option. The order allows the Health Commissioner to exempt health care and other essential workers from the quarantine, which the Commissioner has done. The order also allows travelers to take a COVID-19 test within 72-hours of departure for New York, quarantine for three days after arrival, and take another COVID-19 test on the fourth day, which, if negative, satisfies the travel quarantine requirement.

Nowhere do we find any legal requirement for a resident to answer a call or open the door to the Sheriff or his representative without a warrant. In fact, such a requirement would run afoul of the Fourth Amendment to the U.S. Constitution, which prohibits unreasonable searches and seizures. The lack of both accurate information and nuanced messaging are likely to lead to decreased compliance with the required quarantine itself.

**Our second objection is rooted in our experience in public health, which teaches us that education with accurate information is more likely to lead to successful outcomes than threats.** This is particularly true if the person who must quarantine has the opportunity to have any questions answered. Asking the person who is expected to quarantine questions about barriers and then working to help that person overcome those barriers also enhances the likelihood of cooperation. Finally, nuanced messaging from someone trained in public health, that takes into account family, cultural and personal circumstances, is far more likely to yield success than a message from a member of law enforcement.

---

5 The Spanish language version of the robo-call differs in significant respects from the English language version, and, to the best of our knowledge, the robo-call is not available in languages besides English and Spanish.
Our third objection is that messages by you and by the Sheriff directly tie law enforcement to New York City’s Test & Trace Corps. It appears that the Sheriff’s role in tracing individuals with COVID-19 risk is confined to travel quarantine, but we worry this will lead to less cooperation with Test & Trace staff more generally and may lead people who want to avoid contact with law enforcement to avoid COVID-19 testing. This is not conjecture. When police in Minnesota announced that they started “contact tracing” those who participated in protests following George Floyd’s murder, health care workers found that individuals were more likely to distrust contact tracers and less likely to participate in contact tracing. In the Test & Trace program, persons who test positive are expected to share the names of anyone who might have been exposed to the virus by being in close proximity with the person testing positive. One can imagine that people will be far less likely to share those names if they believe that they might be subjecting anyone they name not only to quarantine, but also to large fines or a visit from the Sheriff. Successful test and trace programs identify and support an individual’s needs for testing and quarantine. Threats and punishment undermine the trust successful programs rely on.

Fourth, we object to the use of law enforcement to break up gatherings in people’s homes. Given the systemic racism we have witnessed in law enforcement generally, we believe that use of law enforcement to enforce rules on the size of gatherings in people’s homes will disproportionately impact Asian-Americans, people who are Black and/or Brown, undocumented people, and low-income New Yorkers, many of whom are already subject to unfair and abusive targeting by police. Again, we believe that solid and culturally appropriate public education, delivered by trusted messengers, is the best way to discourage private home gatherings that increase the risk of transmission of COVID-19.

Finally, we observe that to the extent that the Sheriff’s Office is determining who to target for robo-calls or home visits based on information collected by the New York City Test & Trace Corps, including COVID-19 test results, where the Sheriff’s Office is not acting in response to an individualized public health order, the Sheriff’s Office’s actions run afoul of the newly-enacted contact tracing confidentiality law.8

We therefore implore the Mayor and city government to immediately remove the Sheriff’s Office from any role in COVID-19 tracing and specifically from its current role in monitoring travelers into our city.

Signed,

Charles King
CEO, Housing Works, Inc.

On Behalf of the Following Signing Organizations and Individuals:

ACT UP NY
Advancing Health Equity
Callen-Lorde Community Health Center
Commission on the Public’s Health System
Cranky Queer Guide to Chronic Illness
Housing Works

---

8 N.Y. Pub. Health Law § 2180 - 81 (McKinney)
Latino Commission on AIDS
Legal Aid Society of NYC
Neighborhood Defender Service
National Black Leadership Commission on Health
New York City Anti-Violence Project
New York Civil Liberties Union
PrEP4All
Positive Women's Network-USA
Reclaim Pride Coalition
S.T.O.P. - Surveillance Technology Oversight Project
TAG (Treatment Action Group)
Unity Fellowship of Christ Church NYC
VOCAL-NY

Wafaa El-Sadr, Director|ICAP at Columbia
Denis Nash, Distinguished Professor, Executive Director, CUNY Institute for Implementation Science in Population Health
Uche Blackstock, MD, Advancing Health Equity
Charles King, Housing Works
Joseph Osmundson, Clinical Assistant Professor, NYU
Naomi Braine, Professor of Sociology, Brooklyn College
Anna Blume, State University of New York, FIT
Betty Kolod
Maureen McDermott
Stephen Sukumaran, MPH
Maureen Miller
Kelly Britt
Olivia Howell
David J Forbes, CUNY
Iris Lopez, CUNY