

**Statement of Caswell F. Holloway
Chief of Staff to Deputy Mayor for Operations Edward Skyler and
Special Advisor to Mayor Bloomberg**

**Resolution 1924 in support of the 9/11 Health and Compensation Act
May 21, 2009**

**Civil Service and Labor Committee and Lower Manhattan Redevelopment Committee
New York City Council**

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Examining the Health Problems and Treatment Options for 9/11 First Responders; Reso. 1924 on James Zadroga 9/11 Health and Compensation Act (May 21, 2009)

Introduction/Overview

- Good morning. I want to thank Chairman Martinez and Chairman Gerson, as well as the other distinguished members of the Council for convening this hearing on the health problems and treatment options for 9/11 first responders and Reso.1924, which calls on Congress to pass the 9/11 Health and Compensation Act (H.R. 847).
- I also want to thank Council Speaker Quinn and the entire Council for making it a priority to support legislation to establish a sustained, long-term 9/11 health program. While the full extent of the health effects resulting from the WTC attacks is unknown, medical evidence suggests a variety of short-term and medium-term health impacts. Additionally, the Centers of Excellence and the WTC Health Registry continue to generate valuable research adding to our body of knowledge about these health effects. Addressing the long-term effects of this attack on America will require a sustained federal commitment to monitoring and treatment.
- My name is Cas Holloway and I am Chief of Staff to New York City's Deputy Mayor for Operations Edward Skyler and a Special Advisor to Mayor Bloomberg.
- I was also an Executive Director of a Panel convened by Mayor Bloomberg at the fifth anniversary of the attacks to assess the Health Impacts of 9/11. That report called for a sustained, long-term program to provide monitoring and treatment to address the health impacts of 9/11, and for the re-opening of the Victim Compensation Fund.
- Since that time, I have testified before you on the City's efforts to address the health problems and treatment options for first responders, residents and others affected by the 9/11 terrorist attacks. The Mayor and I also have traveled to Washington, and I returned as recently as last month, to make the case for sustained federal funding.
- The administration supports Reso. 1924, and joins the Council in urging Congress to pass legislation that will provide long-term federal funding to monitor and treat those harmed by the attacks; to continue vital research so we can fully understand the health impacts of the 9/11 terrorist attacks; and to re-open the Victim's Compensation Fund so that those who were harmed can be compensated quickly and fairly, without having to prove that anyone other than the terrorists were at fault.

- H.R. 874, the federal bill currently before Congress that is the subject of the Council's resolution, it is an important step forward, and in its broad strokes, would achieve these goals.
- But as the Resolution before the Council notes, there are two important issues that must be addressed in the current legislation. First, the bill requires the City to pay 10% of the entire treatment and monitoring costs for anyone eligible under the bill. Based on the best information we have from CBO, this translates to more than \$50 million per year—more than \$500 million over 10 years. Particularly at a time when the City is being forced to make deep cuts, including to essential services, the cost share in the bill is simply too high.
- The members of this Committee know well that we are still in the throes of an economic crisis that has resulted in the highest unemployment rate in New York City since October 2003, and a projected budget gap of \$4.5 billion in FY 2011 that could grow to \$5 billion and more in future years. Mayor Bloomberg has moved aggressively—since well before the current crisis became apparent—to cut costs and save surpluses for tough times; but even with these measures the City has had to make deep cuts, and we're not done yet.
- I mention these statistics not merely because they are timely, but because the City's finances are severely strained; we must concentrate resources on providing the essential services New Yorkers and visitors to the City need, and on getting the economy running again. Addressing the health impacts of 9/11 is clearly a national obligation, and it is unfair to ask New York City taxpayers to bear such a disproportionate burden of the costs.
- Second, regardless of what the City's cost share ultimately turns out to be, the bill does not give the City adequate oversight of the programs it is expected to fund. This issue can be easily addressed by the addition of a "right-to-audit" or similar mechanism to the bill, and it must be included to give the City the tools it needs to ensure that public dollars are spent appropriately.
- I'd like to review some of the essential facts about the scope of the 9/11 Health problem, and the considerable efforts the City has made to address it.
- As Reso 1924 notes, More than 90,000 (and by some estimates, well more than 100,000) New York City firefighters, police officers, other first responders and recovery workers responded to ground zero and participated in the rescue, recovery and clean-up at the site. And hundreds of thousands of residents, area workers, school children and other community members were directly impacted by the attacks.
- Although Congress has appropriated funding on an ad-hoc basis to monitor and treat these groups, the uncertainty of that funding requires that we seek new appropriations every year—and we were only recently able to access some of these funds for the only Center of Excellence that treats residents and other non-responders—the WTC Environmental Health

Center at our Health and Hospitals Corporation.

- Two and a half years ago, as the fifth anniversary of 9/11 approached, Mayor Bloomberg directed City agencies to make a thorough investigation of the health problems created by that terrorist attack. The report we published six months later established beyond question that many people who were in or near the area around the World Trade Center on September 11th or the days following are suffering from a variety of physical and mental conditions.
- They include firefighters and police officers... community residents, schoolchildren, and owners and employees of neighborhood businesses... and also construction workers and volunteers from across America who contributed to the heroic task of clearing the debris from the World Trade Center site.
- The report made clear that the ultimate scope of these health effects is still unknown; that they must continue to be studied; and that those who are sick or could become sick must be monitored and treated with the best possible care.
- The destruction of the World Trade Center was an act of war against the United States. People from every part of the country perished in the attack, and people from all 50 states also took part in the subsequent relief and recovery efforts. And that makes addressing the resulting health effects of 9/11, as well as compensating those who were harmed as fairly and expeditiously as possible, a national responsibility.
- But New York City has not waited for federal funds to meet the health needs of those who are sick in the aftermath of 9-11. New York City taxpayers have, for example, borne the expense of free screening and treatment for thousands of people at the WTC Environmental Health Center at our Health and Hospitals Corporation; and we've launched a number of public outreach campaigns about 9/11 health problems and how to get help.
- In addition, in 2008, our Department of Health and Mental Hygiene launched the 9/11 Benefit Program for Mental Health & Substance Use Services, which provides coverage for mental health services for thousands of New Yorkers directly affected by the attack. Since its April 2008 inception, 2,378 individuals have enrolled in the program, and more than 1,400 individuals have initiated the enrollment process and are awaiting an eligibility determination.
- This program, and many of the 9/11-related health programs funded by the City, were initiated on the assumption that federal funding would eventually become available—through the 9/11 Health and Compensation Act or otherwise. The City will not be able to continue to fund these programs on its own indefinitely, and all of them are in jeopardy unless Congress acts quickly.

FDNY and DOHMH

- I do not mean to suggest that the federal government has done nothing in this area. NIOSH grants, and the annual appropriations that Congress has made over the last several years have funded the World Trade Center program at Mt. Sinai, as well as the longest-running health response to the attacks--the FDNY WTC Medical Monitoring and Treatment Program.
- Through that program, about 15,000 FDNY rescue/recovery workers (active and retired fire and EMS) have received at least one FDNY WTC Monitoring Exam, a 97 percent compliance rate. Over 85% have received a 2nd WTC Monitoring Exam, and over 75% have received a 3rd Exam. A fourth exam was initiated this year, and compliance and retention rates remain extremely high.
- Along with monitoring, the program has provided treatment, including WTC-related prescription drugs, to thousands of FDNY rescue/recovery workers. In the most recently completed grant year (7/1/07 to 6/30/08), the program provided WTC-related physical health and mental health treatment to 3,157 and 2,574 members, respectively.
- The program also serves as a key source of vital research on the health impacts of 9/11. FDNY has produced 25 peer-reviewed articles on WTC medical conditions.
- The FDNY program is operating under a federally funded NIOSH grant program for monitoring, treatment and data analysis. FDNY has recently received approval for a no-cost extension of existing NIOSH funds. FDNY predicts, however, that these funds will only carry the program into the Summer or early Fall at the latest.
- In addition, federal funding enabled the establishment of the WTC Health Registry, which this bill will continue to fund on a permanent basis. The Registry is a partnership between the City and the federal government that is the largest effort of its kind in history. It includes more than 71,000 exposed people from every state in the country, and from every Congressional District. Over 20 percent of the people in the Registry are from outside the New York Metropolitan region. This is a reflection of the numbers of people from throughout the country who were in New York at the time of the attacks, or who came to New York afterwards.
- Efforts like the Registry, and the reports generated by the Medical Working Group created by Mayor Bloomberg to keep abreast of the newest research and resource needs for 9/11 health issues, are central to the City's approach to this issue, which is to dedicate resources based on the latest science and medical research. And the data shows that 9/11 health issues continue to be a serious problem.
- Registry data confirm continued high levels of reported post-9/11 asthma and Post-Traumatic Stress Disorder (PTSD) among Registry enrollees 5-6 years after the attacks. Adverse health symptoms, while reported mostly among rescue and recovery workers, have also been

reported by Lower Manhattan residents, office workers, and passersby on 9/11. Reported PTSD levels were high at baseline and remain elevated at the time of the follow up survey.

H.R. 847

- I've spent some time talking about the City's Centers of Excellence and DOHMH's efforts. H.R. 847, which the Council's Reso. 1924 addresses, generally provides for their long-term sustainability.
- The federal bill provides long-term funding to monitor and treat those who are sick or who could become sick because of 9/11, including the 3 current Centers of Excellence, and the DOHMH Mental Health program I described above. It also continues funding for critical research, including the WTC Health Registry. Finally, the bill reopens the Victim Compensation Fund so that people who were harmed by the terrorist attacks can get compensation fairly and quickly without having to prove that the City, the contractors, or anyone else but the terrorists were at fault.
- To ensure that funding goes only to those whose illnesses are due to 9/11, the bill includes important controls that the City fully supports. First, the bill defines specific groups (for example, firefighters or recovery workers) and specific geographic areas that people must have been in on, or within a defined time period after 9/11 to be eligible for treatment.
- I should note that there is specified funding to treat people outside the designated areas or groups who may—on a case-by-case basis—be eligible for treatment for a 9/11-related condition. This is necessary because we do not know the full extent of the health impacts of the disaster and want to provide a means for anyone sick because of 9/11 to get treatment.
- Second, while people who meet these criteria are “eligible” for treatment, to actually get treatment, a doctor with experience treating WTC-related conditions must determine based on a medical examination, that exposure to airborne toxins, trauma or other hazards caused by the 9/11 attacks is substantially likely to be a significant factor causing, contributing to or aggravating the patient's condition.
- That assessment must be based in part on standardized questionnaires; and even after a condition is deemed to be WTC-related, it is subject to review and certification by the WTC administrator.
- These are tough standards that are based to a large extent on the protocols already in place at the WTC Environmental Health Center in the New York City Health and Hospitals Corporation. They are necessary to ensure that only those who are sick due to 9/11 are treated under this program.

- The bill also caps the number of responders and community members who can get monitoring or treatment. These limitations are based on the best available information about how many people were exposed and could potentially be ill, and while we think they will be sufficient to provide treatment to anyone who may need it, there are reporting requirements in the bill so that Congress will be told if those caps are approached.
- In addition to these controls—which apply to every potential patient—the bill mandates the establishment of Quality Assurance and Fraud Prevention programs that will act as further safeguards against the misuse of these funds for any purpose other than to monitor and treat those affected by the 9/11 attacks.
- The bill also includes important provisions to ensure that federal dollars go only to cover costs that the federal government should pay. For example, there is an offset for any Worker’s Compensation payments that have been made. For non-work related conditions, the program acts as a payor of last resort if an eligible recipient has applicable health insurance.

Re-opening the Victim’s Compensation Fund

- The bill also re-opens the Victims Compensation Fund (VCF), a critical step that’s long overdue.
- The VCF worked well, and approximately 5,500 claimants opted to accept awards rather than to pursue a lawsuit. However, eligibility limitations made it unavailable to most of the workers at Ground Zero. And there are now many rescue and recovery workers, not to mention those in the community, who report injuries and illnesses, but have no option for compensation other than litigation.
- The downsides of litigation are well known. The outcome is uncertain. The process is prolonged and costly. And even if the plaintiffs are successful, much of the compensation awarded will not go to them, but to their lawyers. Most regrettably, this litigation pits the City against the heroic workers who rushed to the World Trade Center site to aid in the rescue, recovery and cleanup efforts.
- Fortunately, there is a better way: re-opening the Victim Compensation Fund. Compensation from the fund will be prompt and certain and there will be no need to assign blame to anyone. In addition, there will be no need to marshal the services of hundreds of lawyers and experts in a pitched battle between the responders and the City and its contractors.
- Re-opening the VCF will provide fast, fair, and certain relief to workers and area residents. It would end the misplaced efforts to assign blame to the City and the companies who worked to help New York recover from 9/11, instead of to the terrorists who attacked our nation.

The City's Position on H.R. 847

- As I noted at the outset of my testimony, overall, this legislation represents an important step towards establishing a long-term federal program to address the health impacts of 9/11.
- As drafted, however, the bill requires the City to contribute a 10 percent matching cost share of the entire program, which could be up to \$500 million over 10 years. City taxpayers would be required to fund 10% of not only the community program—but also the responder program and the national program, regardless of whether New York City residents are the recipients of care.
- This is simply too high a cost for City taxpayers to shoulder alone for what clearly must be a national response to an act of war against our country. This is not to say that the City objects to any cost-sharing. Indeed, Mayor Bloomberg fully supported an earlier version of the bill that required the City to pay 5% of the cost of treating anyone treated at a Center of Excellence within the City's Health and Hospitals Corporation. We accepted this obligation, because it ensures that the City has a strong incentive to monitor these programs and make sure that these health care dollars are spent wisely.
- But imposing on City taxpayers a cost share of 10 percent of the *entire* program, without giving the City any oversight of how those dollars are spent, is unfair, and unacceptable if the City is to be accountable—as it must be—for ensuring that public funds are used appropriately.
- We are confident, however, that Congress can address these critical issues, and that the City will be able to fully support legislation that we hope will be presented for President Obama's signature before another anniversary of the attacks passes.
- I want to thank the members of the City Council again for your attention and for voicing your support for such an important piece of federal legislation through Reso 1924. I'd be happy to answer any questions you might have.