

Statement of

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**Oversight: An Update on the Status of Access to Medical Care for
Municipal Workers Involved in the 9/11 Recovery Effort**

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Before the
New York City Council Committee on Civil Service and Labor

Good afternoon and thank you for the opportunity to testify today. My name is Cas Holloway and I am Chief of Staff to Edward Skyler, Mayor Bloomberg's Deputy Mayor for Administration. I am here today representing Deputy Mayor Skyler and in my capacity as one of the Executive Directors of the Mayor's World Trade Center Health Panel that was co-chaired by Deputy Mayors Skyler and Linda Gibbs. As Deputy Mayor Gibbs noted, her Director of Health and Human Services, Rima Cohen, was also an executive director of the panel.

My testimony will cover 3 topics: (i) the Panel's principal findings and recommendations with respect to City Employees who participated in the World Trade Center Rescue, Recovery and Clean-up operations; (ii) the cost estimates that the Panel made of the overall health impacts of 9/11 and what the City needs from the federal government at a minimum to provide the direct treatment, research and information that people suffering from 9/11-related health effects need; and (iii) finally, I will talk briefly about the need for Congress to reopen the Victim Compensation Fund so that people harmed by the attacks can get just compensation quickly—which will allow the City to focus on providing the best health care to those who may have been harmed by 9/11, rather than fighting them in the court room.

City Employees

The Panel spent considerable time reviewing WTC-related health policies at City agencies, including (i) how agencies identified employees who participated in WTC operations; (ii) the availability of medical and mental health monitoring and treatment to City employees who participated those operations; and (iii) agency practices with respect to the collection and dissemination of information about WTC-related health issues. As Deputy Mayor Gibbs explained, we started by distributing a survey to every City agency, and Panel staff held follow-up discussions with representatives from thirteen agencies, unions from each of the uniformed services, District Council 37, and a number of private-sector unions. For a full review of the Panel's findings, I refer the Committee members to the full report, but I will share a few highlights:

- 36 agencies reported that approximately 59,000 City employees participated in WTC operations;

- Approximately 50,400 (85%) of this number came from the Fire Department (FDNY) and the Police Department (NYPD);
- More than 3,400 (5.9%) came from the Department of Sanitation (DSNY); approximately 1,800 (3%) came from the Department of Transportation (DOT); and more than 1,000 (1.7%) came from the Department of Corrections (DOC); and
- In addition, more than 2,700 City employees came from other City agencies, including DEP, Parks, the Health and Hospitals Corporation and the Department of Buildings.

Identification

The Panel looked at the extent to which agencies identified and continue to stay in touch with employees who participated in WTC operations—primarily to assess the City’s capability to communicate with these employees and retirees about 9/11-related health issues. Generally speaking, the panel found that uniformed agencies had a greater capacity, and had done more to identify participants in WTC operations than non-uniformed agencies—and the FDNY and NYPD have done a particularly thorough job identifying who among their ranks responded on 9/11 or took part in the recovery and clean-up at the World Trade Center site. Overall, however, the Panel found that agencies could do a better job identifying, tracking and keeping-up with employees who participated in 9/11 operations—particularly with respect to retirees.

Monitoring and Treatment

The Panel also reviewed 9/11-related health care programs available to City employees, either through their agency or from another source. I should note at the outset that all City employees who participated in WTC operations had health coverage on 9/11—and still have it if they are currently employed by the City, or have retired with vested health benefits. As Deputy Mayor Gibbs explained, FDNY has established the WTC Monitoring and Treatment program within the Bureau of Health Services that is open to all members of the Department and retirees who responded on 9/11 or soon thereafter. No other City agency has a comparable in-house treatment program—which is not surprising, since FDNY has long had an in-house treatment capability to address the unique environmental hazards that firefighters face.

For other active-duty uniformed employees, the Line of Duty Injury (LODI) process is the primary means to get treatment for illnesses and injuries arising out of participation in WTC operations—or any other work-related activity. Once an agency medical professional determines that a uniformed employee's condition is work-related, the employee is entitled to free health care services—including physician visits, diagnostic tests, and inpatient care—with no out-of-pocket costs to the employee. However, LODI coverage ends upon retirement, at which point uniformed service members must get medical treatment (whether WTC-related or not) through their private health insurance.

The availability of mental health services also varies by agency. FDNY members (uniform, civilian, retirees, and affected family members) are eligible for treatment through FDNY's Counseling Services Unit (CSU). Members of the NYPD who participated in WTC operations—and any other member of the Department—can get care through two NYPD-affiliated, but independent programs: COPE and the Police Organization Providing Peer Assistance (POPPA). The Department of Corrections offers employees mental health services through its Correction Assistance Response for Employees (CARE) unit, and DSNY employees can receive counseling through the Department's Employee Assistance Unit, though neither of these services specifically target suspected 9/11-related conditions.

Beyond FDNY's WTC Monitoring and Treatment program, the availability of WTC-specific treatment options differs by agency. As noted, no other agency has the on-going in-house treatment programs that FDNY has long had. However, NYPD offered voluntary WTC-related medical and psychological screenings for anyone in the Department's WTC database (or for any participants in WTC operations), and provided referrals for follow-up treatment based on screening results. The Department of Correction's Health Management Division (HMD) offered evaluations to employees upon request. DSNY did not offer monitoring, treatment or screening for employees who participated in WTC operations. Of course, many members of uniformed agencies are eligible to participate in the medical monitoring and treatment program coordinated by Mt. Sinai—and every uniformed agency encouraged employees who participated in World Trade Center recovery and clean-up operations to enroll. In addition, any City employee with symptoms that he or she believes to be 9/11 related is eligible for evaluation and treatment

through the Bellevue program. As Deputy Mayor Gibbs explained, these Centers of Excellence for WTC healthcare (FDNY, Mt. Sinai and Bellevue) have provided the bulk of monitoring and treatment services. However, agency officials and union representatives suggested that some employees may not participate in these programs unless they experience acute symptoms. And outside the fire department, uniformed employees have to use sick leave to do the initial screening for Mt. Sinai or an evaluation at Bellevue—meaning that they essentially participate on their own time—which also can be a barrier to participation in these programs.

The City's civilian personnel and agencies, including the Mayor's Office, were a vital component of WTC operations, particularly EMS workers, who responded on 9/11 and were present at the site for the duration of the rescue, recovery and clean-up. EMS workers are eligible for the FDNY's WTC Monitoring and treatment program; generally speaking, however, active-duty employees, workers compensation and disability benefits are the primary means to get reimbursed for job-related injuries; and post-retirement benefits are handled through the pension system. Some civilian employees qualify for the Mt. Sinai program, and any employee with 9/11-related symptoms can go to Bellevue. As with uniformed agencies, however, agency staff and union representatives said the fact that workers must use sick leave to access services may discourage participation in the program.

Civilian employees also have mental health coverage under their health plans, and most City employees are covered by GHI and HIP. Though there is a co-payment for these services, there is no cap on the number of visits insurance will cover. Another vital resource is the City's Employee Assistance Program (EAP), which provides education, information, counseling and referrals to City employees with personal and social problems. The EAP took significant steps to address the 9/11-related mental health needs of the City's workforce that are explained in detail in the Panel's report.

Communications and Outreach

The Panel also reviewed agency communications about 9/11-related health issues, including the availability of treatment programs, and whether agencies had any mechanisms in place to communicate with employees who participated in WTC operations. With the exception of

FDNY, the Panel found that most City agencies do not currently have formal mechanisms in place to regularly communicate with City employees about WTC-related health issues—though WTC health issues are regularly highlighted in some agency publications, including NYPD “finest” messages. Uniformed agency staff and union representatives said that they widely publicized the Mt. Sinai program when it was established in 2003, and that employees were encouraged to participate in the WTC Health Registry before enrollment closed in 2004. The City also did much to inform employees about participation in the registry and the availability Overall, the Panel found that most agencies with large numbers of employees who participated in WTC operations could do more to provide them with information about WTC-related health issues. While there is a wealth of 9/11-related health information available on www.nyc.gov--particularly on the DOHMH website--these resources could be supplemented and improved.

Recommendations

To address these issues, the panel made a number of recommendations, all of which the Mayor accepted and that we are working to implement:

- The panel recommended that the Mayor should direct all relevant agencies to appoint a WTC Health Liaison to work with the WTC Health Coordinator that Deputy Mayor Gibbs talked about to continue to distribute WTC-related information to agency employees and retirees who participated in WTC operations and to meet regularly as a group with the WTC Health Coordinator to review WTC-related health issues that span across agencies and ensure consistency to the extent possible. The Panel also recommended that the Agency liaisons and the WTC Health Coordinator promote enrollment in mental-health programs for conditions related to 9/11;
- To facilitate targeted WTC-related communications and service delivery, the Panel recommended that relevant agencies undertake a renewed effort to identify City employees, former employees and retirees who participated in WTC operations, including the development of a voluntary database that would be used to stay in touch with active and retired employees about WTC-related health issues and the availability of medical and mental-health services.

- To address the concern that City employees may not be participating in the Mt. Sinai and Bellevue programs, the Panel recommended that employees be given the opportunity to do an initial screening or evaluation on City time; and
- Finally, to ensure that eligible City employees preserve their rights to Workers Compensation benefits, the Panel recommended that the City promote registration with the New York State Workers' Compensation Board by August 14, 2007.

Costs of 9/11 Health Impacts

The Panel also looked at the potential costs of the health impacts of 9/11—on both a nationwide basis and in terms of the minimum amount the City and existing monitoring and treatment programs will need to implement the Panel’s recommendations.

Panel experts estimated that the gross costs of treating the health impacts of 9/11 is approximately \$393 million per year. If you assume that that number is a reliable estimate of gross costs in the five years since 9/11—and there is reason to believe that the costs were substantially higher in the years immediately following the attacks—the cost of 9/11 health impacts is already at least \$2 billion.

In addition, the Panel Estimated that the minimum amount of federal support needed to provide the direct treatment, research and information that people suffering from 9/11-related health effects is approximately \$150 million next year; and that amount will increase each subsequent year to approximately \$160 million by FY 2011. What will that \$150 million pay for?

Beginning in FY 2008 that funding would be sufficient to:

- (i) Sustain the Mt. Sinai and FDNY programs at current levels;
- (ii) Sustain and expand the Bellevue program to evaluate and treat up to 12,000 patients over the next 5 years;
- (iii) Sustain and expand mental health services made available through the City’s Health Department;
- (iv) Expand the treatment and research capacity of the NYPD;
- (v) Sustain the World Trade Center Health Registry;

- (vi) Increase Community outreach and public education; hire a Citywide WTC Coordinator; build a one-stop internet resource for all affected populations and implement the Panel'

You may ask what the difference is between the \$393 million estimate of gross health care costs and the \$150 million minimum that I have just explained. In brief, the \$393 million is an estimated gross cost to provide health care to anyone who could seek treatment for a 9/11-related illness, whether through the FDNY, Mt. Sinai or Bellevue programs, or from a personal physician or any other source. The \$150 million, on the other hand, is the projected operating costs of the FDNY, Mt. Sinai, Bellevue and DOHMH programs, as well as cost estimates to implement the Panel's other recommendations. But these programs—and the recommendations generally—only fill gaps in available information and treatment for 9/11-related health impacts. These costs do not include the under-funded costs of increased retirement benefits that will result from the passage of presumption legislation enacted by the State over the past year, and that will extend over at least the next 20 years or longer.

Reopening the Victim Compensation Fund

Finally, the Panel also recommended that Congress re-open the Victim Compensation Fund (VCF) that it created shortly after the attacks so that the families of those who were killed and some of the people who were physically harmed in the immediate aftermath of the attacks could get compensation quickly, without having to prove that anyone did anything wrong. The VCF is generally considered to have been a great success—due in no small part to the tireless efforts and integrity of the Fund's Administrator, Ken Feinberg.

As members the members of this committee likely know, more than 8,000 City employees and other workers have sued the City and its contractors. To recover, they must prove that the City and/or the contractors were somehow at fault in connection with the World Trade Center Recovery and Clean-up operations. Like any fault-based insurance, claimants must first establish liability—and the City and its contractors have strong defenses that preclude any liability for what was clearly a necessary response to a national attack. New Yorkers have

always been proud of the way the City came together in the aftermath of 9/11, but this ongoing and divisive litigation undermines that.

Compensating people who were hurt on 9/11 shouldn't be based on a legal finding of who is to blame. We know who is to blame—19 murderers with box cutters. We need to focus our resources on getting people the help and support they need, rather than diverting resources to litigating against those who participated in the City's recovery after 9/11. Only by re-opening the VCF can we ensure that those who were harmed by 9/11 get just compensation quickly. And only by taking these steps can we ensure that in the event of another terrorist attack—whether in New York or anywhere else in America—the private sector will come to the country's aid as swiftly and with the same selflessness, energy and determination that was brought to bear on September 11, 2001. Re-opening the VCF is not just about health and compensation for injury; it's necessary to guarantee public safety in the future.

The health impacts of 9/11 are substantial and will be with us for years to come. Implementing the Panel's recommendations will ensure that those who are sick, or who may become sick as a result of 9/11 get the first-rate care they need. And it will mean that the federal government recognizes that it must commit resources commensurate with the size, scope and duration of this national problem. New York City cannot do it alone. And while we never wait for the federal government, or anyone else to help people in need, the fact is that without the help of Congress and the Bush Administration, there is a real risk that the healthcare needs of many thousands who responded on 9/11 and who stayed in the City to help us and the nation rebuild will go unmet. We hope that the City Council will join us in working with our partners in Washington D.C. and Albany to prevent this entirely preventable outcome.

Thank you for the opportunity to testify before you today.