

Testimony of Frank Tramontano, Research Director of the Patrolmen's Benevolent association before the Committee on Civil Service and Labor regarding Intro 714 – June 4, 2009.

Good afternoon my name is Frank Tramontano and I am the Research Director of the Patrolmen's Benevolent Association of the City of New York. I am here with Christopher McGrath and David Morris legal counsels to the Patrolmen's Benevolent Association who helped me in preparing my testimony today.

I would like to thank the Speaker and her staff as well as Chairman Miguel Martinez and his staff and the Counsels to this committee as well as all the other members of the Civil Service and Labor Committee for taking the time to understand this issue and agreeing to have this hearing on this important legislation.

As you know, under the Administrative Code of the City of New York, the City is obligated to pay the medical expense of any employee who is injured or made ill in the scope of employment. Intro 714 addresses an unfair hardship that currently faces City employees who were victims of the World Trade Center attacks of 9/11. This bill requires the City to provide medical care for those City employees who become ill with a medical condition identified in State law as eligible for a World Trade Center accident disability.

Under State law if a City employee has one of these medical conditions and can no longer perform their duties, there is a presumption that the medical condition is a direct result from their work at one of the World Trade Center sites and the employee is granted an accident disability providing he or she meets the eligibility criteria in the State law for time spent at one of World Trade Center sites.

In contrast, these same individuals are often not provided Line-of-Duty status by the City for these same illnesses denying them the cost free medical care that would come with this determination. Currently employees who do not get line of duty status for their World Trade Center related illness often rely on the medical benefits provided by their chosen medical plan, which in some cases can pose a severe financial hardship.

In addition, union welfare plans must shoulder the cost of prescription drugs for many World Trade Center related ailments which are considerable. Finally, almost all of the employee plans, and union welfare funds require co-payments and have both yearly spending limits and lifetime spending limits, which depending upon your medical needs can be significant.

Employees do have an option to seek cost free medical treatment and monitoring at the World Trade Center Programs at Mt. Sinai Hospital or Bellevue Hospital but cannot acquire cost free medical treatment with their own physicians without a line-of-duty determination. The medical needs for these employees often limit their ability to travel and these illnesses are generally life altering and life threatening making a choice of doctors and type of care extremely important.

Intro 714 will remove these limitations and because the City would be providing the medical coverage, both early treatment and quality care is more likely to occur, which can make a real difference in these victim's lives.

Intro 714 would mandate the City to provide cost free medical care for the employees who contract the illnesses identified as World Trade Center related in State law. The City's responsibility for providing medical coverage would start upon diagnosis of the listed medical conditions in the State law.

Too often these employees are not provided line-of-duty status and then must seek medical coverage on their own, navigating their insurance plan in an attempt to seek the best possible coverage.

While this legislation covers all employees I would like to provide the committee with some evidence we have gathered regarding PBA members and the frequency of the Agency's denials of World Trade Center related Line of Duty designations provided by the NYPD's Medical Division.

From January 2007 until December 2008, 59 PBA members were approved for an accident disability under the State World Trade Center Disability Law. Only 3 of these employees were granted a World Trade Center Line-of Duty injury providing them with cost free medical care.

Out of the 56 others that were not provided the line of duty status that would be automatic under this proposed law, the vast majority have similar if not identical medical conditions, particularly pulmonary disorders, as the three police officers that were approved for line of duty status.

In September of 2007 after the conclusion of a hearing held by this committee on the access to medical care and benefits for uniformed municipal workers involved in the 9/11 recovery effort, I had a conversation with Dr. Eli Kleinman, chief Surgeon for the NYPD medical Division. Dr. Kleinman stated that all medical costs related to 911 illnesses of a uniformed member of the NYPD will be reimbursed by the Police Department after these members receive an accident disability under the World Trade Center Disability law. In the last two years we are unaware of any of our members being reimbursed for their medical expenses with the exception of one member who filed an Article 78 against the City and the City agreed in a stipulation to approve his line of duty request and reimburse him for all his related medical expenses.

The City appears, at least in the NYPD, to be very reluctant to grant Line of Duty status for World Trade Center related illnesses. We fear that these decisions are being driven by concerns of financial cost and are not based on the type of illness and the relationship to exposure to toxins from the World Trade Center attacks.

In their report released in the spring of 2007 titled Addressing the Health Impacts of 9-11, The City attempts to explain their process for granting line-of-duty status for 911 victims. On page 76 of that report the City states "the NYPD Medical Division line-of-duty injury decisions are based on the DOHMH WTC clinical guidelines". However the lists of illnesses identified as World Trade Center related in those guidelines are the same illnesses most of those 56 PBA members identified above have, yet most were never granted Line-of-duty status or reimbursed for their medical expenses. The refusal to cover medical

expenses for these individuals is in conflict with their own guidelines and contrary to what Dr. Kleinman told me back in September 2007.

Tellingly, the majority of these 56 employees have illnesses that are eligible for treatment under the federal sponsored World Trade Center program at Mt. Sinai. The fact that the Federal Government recognizes these illnesses as World Trade Center related and the State recognizes them as qualifying for a World Trade Center accident disability, makes the City's refusal to do the same questionable at best.

The refusal to grant line-of-duty status also works against an employee getting quality treatment in a timely manner. In cases where the federal government and the State have determined the illnesses are World Trade Center related we would expect the City to be even a stronger advocate and coordinate the effort to get the best treatment available for its employees. This unfortunately is not the case.

In closing it is our hope that this committee will closely consider and support this legislation. It is important that those who have been made ill simply because their job exposed them to toxins after the 911 WTC attacks are provided the best possible medical care at no cost to them and their families, as required by law. This is not the current situation and we are hoping that the City Council will correct this injustice and move forward on Intro 714. This City is often called the greatest City in the World and we are hoping that the City government will be reflective of that moniker when it comes to treating its employees who have become sick due to their World Trade Center-related work. Thank You and we are here to answer any questions you may have.