

**Dragon, Karen E. (CDC/NIOSH/EID)**

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**From:** Frank Tramontano [FTramontano@NYCPBA.org]  
**Sent:** Friday, April 29, 2011 4:11 PM  
**To:** NIOSH Docket Office (CDC)  
**Subject:** NIOSH Docket 227  
**Attachments:** PBA Submission to NIOSH Docket 227.pdf

NIOSH Docket Office:

On behalf of the Patrolmen's Benevolent Association of the City of New York, Inc., please see attached submission to NIOSH Docket 227.

Sincerely,

Frank Tramontano

*Patrolmen's  
Benevolent  
Association*

Of The City Of New York, Incorporated



April 29, 2011

**VIA ELECTRONIC MAIL**

**(nioshdocket@cdc.gov)**

Dr. John Howard, Director  
NIOSH Docket Office  
Robert A. Taft Laboratories  
MS-C34  
4676 Columbia Parkway  
Cincinnati, OH 45226

Re: Request for Information on Conditions Relating to Cancer To  
Consider for the World Trade Center Health Program;  
Docket number – NIOSH-227

Dear Director Howard:

I am writing on behalf of the Patrolmen's Benevolent Association of the City of New York, Inc. (the "PBA") in response to NIOSH Docket 227, which requests information on conditions relating to cancer to consider for the World Trade Center Health Program under Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. No. 111-347), codified at 42 U.S.C. §§ 300mm to 300mm-61 (the "Zadroga Act"). The PBA is a public employee organization and is the duly certified collective bargaining agent for all members of the New York City Police Department holding the rank of police officer. The PBA currently represents approximately 22,000 active police officers.

The WTC Program Administrator (the "Administrator") is tasked with periodically conducting "a review of all scientific and medical evidence, including findings and recommendations of Clinical Centers of Excellence, published in peer-reviewed journals to determine if, based on such evidence, cancer or a certain type of cancer should be added to the applicable list of WTC-related health conditions," with the first such review by July 1, 2011. 42 U.S.C. § 300mm-22(a)(5). Based on such a review, if the Administrator determines that cancer or certain types of cancer should be added as

a covered health condition, the Administrator has the authority to do so. *Id.* § 300mm-22(a)(5)(B)-(C).

In making this decision, the Zadroga Act does not mandate scientific certainty as to causation as a pre-requisite to adding cancer as a covered health condition. 42 U.S.C. § 300mm-22(a)(5)(C). In fact, subsection C mandates that based on “all the available evidence in the rulemaking record,” the Administrator shall make a decision whether to add cancer to the list of covered health conditions. In other words, the Administrator is vested with discretion.

In exercising that discretion, the Administrator should consider the remedial nature of the statute. The Zadroga Act’s intent is to provide medical monitoring and treatment for those responders who did their duty when the country called upon them to respond to an unprecedented tragedy and attack. Given the remedial nature of the statute, and the unprecedented and unique nature of the exposures, the Administrator should exercise his or her discretion in favor of including cancer as a covered health condition. The time to act is now, when those already suffering from cancer need treatment, not another decade or more, when it will be too late.

Using this discretion, there is ample evidence for the Administrator to add Multiple Myeloma to the list of covered conditions for treatment under this law. A report published in August 2009 identified 8 cases of Multiple Myeloma when 6.8 were expected, with 4 such cases being observed in responders younger than 45 years of age, when only 1.2 were expected. *See* Jacqueline M. Moline, MD, MSc., et al., *Multiple Myeloma in World Trade Center Responders: A Case Series*, *Journal of Occupational & Environmental Medicine*, Volume 51, Number 8, p. 896 (August 2009). The report, which was based on data through September 2007, also identified 8 additional cases that were reported after September 2007, which were in the process of being verified. *Id.* at 901. It is our understanding that these additional 8 cases, plus others, were verified, making the actual number of cases rise to a level of almost 3 times the expected rate.

The Administrator should evaluate the evidence and exercise its discretion to add additional types of cancer where one or more of the following is present:

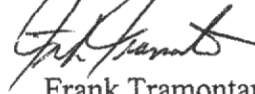
- Particular types of cancer arising from or associated with the type of environmental hazard at issue;
- Particular types of cancer arising from or associated with specific toxins that responders were exposed to at the response sites;
- Particular types of cancer appearing with frequency in the responder population.

If types of cancers that have shorter latency period are added as covered health conditions, sound exercise of discretion may require that cancers with longer latency periods likewise be added. In addition, categorically withholding eligibility for treatment

for all WTC responders who suffer from cancer, solely to wait for long-term studies to be completed, unfairly punishes those responders and puts tremendous financial hardship on them and their families.

These responders did not hesitate when duty called. The Administrator should exercise its discretion to add cancer to the list of covered conditions, so those responders suffering from cancer have an opportunity for treatment when it is needed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frank Tramontano', written in a cursive style.

Frank Tramontano