

“Assessing September 11th
Health Effects”

Testimony of
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on behalf of the
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Christopher Shays, Chairman

Thank you for the opportunity to testify before this subcommittee to address the important issue of September 11th health effects. My name is Micki Siegel de Hernández and I am the Director of the Health and Safety Program for the Communications Workers of America (CWA), District One. CWA District One is CWA's northeast district. I am here today because of the deleterious effects the World Trade Center (WTC) disaster has had on the health of our members. Many CWA members have developed 9/11-related illnesses and we do not know what the future holds in terms of chronic disease. We believe there are still several gaps that need to be filled in the government's response to assess the 9/11 health effects and to care for those who have become ill as a result of their exposures.

CWA represents thousands of members who have been directly affected by the disaster, on 9/11 and in its aftermath. Eleven of our CWA members died in the collapse of the Towers; other CWA members were evacuated from the World Trade Center and surrounding buildings. Over two thousand CWA members worked at Ground Zero. Our members continue to work in offices throughout lower Manhattan and Brooklyn. Our members working in the Towers included Port Authority administrative employees and Verizon employees. CWA represents the nurses who treated the first victims of the disaster at the closest hospital to the WTC site, NYU Downtown Hospital. We represent N.Y.C. traffic enforcement agents, some of whom assisted in the rescue efforts on 9/11 and others who continued to redirect traffic around Ground Zero and in lower Manhattan. CWA members working in offices in lower Manhattan include: public sector administrative employees for the City of New York, Verizon and AT&T telecommunications employees, reporters for Dow Jones at 1 World Financial Center, and Board of Elections employees. The CWA District One office is also located in lower Manhattan.

At Ground Zero, our members included the news crews from ABC, NBC and other stations who brought live coverage of the disaster. Our largest group of members at Ground Zero were telecommunications workers employed by Verizon and Lucent. These telecommunications workers got Wall Street up and running, restored the 911 emergency network and restored the telecommunications network for lower Manhattan which was severely damaged by the attacks. These CWA members were a critical part of the restoration efforts and they worked in various locations throughout the site, on the street and in manholes, as well as, in the Verizon building located at the north end of the WTC site. This is the building that 7 World Trade Center collapsed against. It is this group of CWA members that have been most impacted by adverse health effects due to exposure to contamination.

EPA's politically motivated declaration of air safety had numerous, adverse repercussions for our members. For instance, many of our members returned to their offices prematurely, breathing the contaminated air outdoors and working in buildings without knowing whether they were properly cleaned or not. Three years after the disaster, no government agency has yet assessed the extent of contamination in workplaces or has provided oversight for workplace clean-up.

EPA's misinformation also led to employer decisions that left CWA members working at Ground Zero with inadequate protection from contaminants. Verizon initiated a voluntary respiratory protection program for workers at Ground Zero based on EPA's assertion that the outside air did not pose a threat to health, coupled with results of passive air monitoring for

asbestos inside the Verizon building that did not exceed OSHA standards. With a voluntary respiratory protection program, workers do not have to wear a respirator, respirators are not fit-tested to ensure a correct and adequate seal on the face, and the comprehensive respirator training required by the OSHA Respiratory Protection Standard (29 CFR 1910.134) is not required. As a result, many of our telecommunications members who were exposed to the dust and debris while working at Ground Zero have developed WTC-related health problems.

The preliminary report from the NIOSH funded WTC Worker and Volunteer Medical Screening Program released in January 2003 confirmed this. The interim report summarized data on a random sample of 250 of the first 500 patients examined under the auspices of the WTC Worker and Volunteer Medical Screening Program during the period of July 16 to August 29, 2002. The largest single group of workers in the sample by job/industry were telecommunications workers employed by Verizon and represented by CWA. This group of CWA members comprised 44% of the sample population on which the preliminary report was based. The report indicated the following: approximately 50% of the participants experienced persistent WTC-related pulmonary, ear, nose or throat (ENT), and/or mental health symptoms 10 months to one year following the terrorist attacks; and 78% of the participants reported at least one WTC-related pulmonary symptom that first developed or worsened as a result of their WTC-related efforts. Only about one-third of the sample participants had received any prior medical care for their symptoms and conditions before participating in the screening program.

Since that time, many more CWA members have gone for a screening exam at the WTC Worker and Volunteer Medical Screening Program. To date, 663 CWA members have been seen at one of the participating clinics. At the request of CWA District One, and approved by the Executive Committee of the WTC Worker and Volunteer Medical Monitoring Program, an updated summary analyses of the records of 551 CWA members employed by Verizon and seen by the WTC Worker and Volunteer Medical Screening Program will be provided to CWA after September 10th, 2004.

While the WTC Worker and Volunteer Medical Screening Program (now the WTC Medical Monitoring Program) has provided an invaluable service for our eligible members, it is still grossly under funded. No federal funds have ever been provided to this program for any follow-up medical treatment for those who are ill. It is of paramount importance that money be provided for treatment as part of the WTC Medical Monitoring Program. The Occupational Health Physicians who are part of the WTC Medical Monitoring Program have the training and expertise to understand and treat occupational diseases caused by environmental exposure to contaminants. Most primary care physicians do not possess this expertise. While our members are fortunate to have health insurance coverage, we do not know how many people did, in fact, seek and receive appropriate follow-up care. We also do not know how many people had their treatment delayed or were denied treatment altogether due to controverted workers' compensation claims. There may also be a small number of members who may have lost their continued health coverage, due to subsequent layoffs since 9/11.

At the current funding level, the WTC Worker and Volunteer Medical Monitoring Program can only provide periodic exams (approximately three) for the next five years for workers and volunteers who participated in the initial screening. Five years is clearly not enough time to

monitor workers for late emergent diseases, such as cancers. The program needs to be expanded to provide for long term surveillance. Early recognition and treatment of disease is crucial.

At the current funding level, not all Ground Zero workers and volunteers are eligible for the program. Workers in the vicinity of Ground Zero, such as office workers, and residents have never been eligible for the medical screening program. The program needs to be expanded to cover all affected workers and members of the community.

Evidence exists to support the need for expanded, more inclusive screening. One group of CWA members who were not originally eligible for the WTC Worker and Volunteer Medical Screening Program are the CWA-represented nurses at NYU Downtown Hospital. This hospital, located a few blocks from the WTC site, fell outside the initial geographic boundaries established as criteria for inclusion in the program. After several nurses began reporting breathing difficulties, CWA Local 1104 organized a respiratory screening for this group of nurses with the help of the SUNY-Stonybrook Long Island Occupational and Environmental Health Center. Prior to the physical screening date, questionnaires designed to obtain relevant occupational and health history were distributed to participating members. The screening was conducted on July 15, 2002; 114 members participated in the respiratory screening program. The results of the respiratory screening revealed that 32 participants had abnormal spirometry test results which indicate a decrease in pulmonary performance. The abnormal spirometry test results for 28% of the nurses tested is higher than what would normally be expected in this population of workers. Whether this was due to exposures to WTC contaminants is difficult to conclude with the limited nature of the screening and without funding to provide follow-up treatment and diagnostic medical care.

Out of concern for the health of CWA workers in offices in lower Manhattan, CWA District One also participated in a NIOSH Health Hazard Evaluation in 2002. The evaluation was conducted at the request of several unions with members in lower Manhattan to look at the physical and mental health symptoms experienced by office workers near the WTC site. One of the buildings selected for inclusion in the evaluation, which included some CWA public sector members, was 40 Rector Street. The evaluation found that workers at 40 Rector Street reported elevated rates of upper and lower respiratory and gastrointestinal symptoms, as well as, elevated symptoms of depression and Post Traumatic Stress Disorder compared to a similar group of workers in another area of the city. While this study was not conclusive and was based only on self-reported symptoms, rather than a medical exam, it does raise a red flag as to the health of office workers and highlights the need for a more thorough evaluation.

With hundreds of Ground Zero workers already ill and evidence that a proportion of other workers in the vicinity of the WTC site have also experienced physical health symptoms consistent with exposure to WTC contaminants, it is clear that additional funding for the WTC Worker and Volunteer Medical Monitoring Program is necessary. We strongly believe in the model of the WTC Worker and Volunteer Medical Screening/Monitoring Program. The consortium of occupational health clinics, under the coordination of the Mt. Sinai Center for Occupational and Environmental Health, are trusted by the workers and their representatives and this trust has been an important factor contributing to the success of the program thus far. There is the need for this type of government-sponsored medical monitoring program in order to

provide equal access to care, to centralize records to allow for epidemiological analyses, and to provide consistent, quality care by institutions possessing the necessary expertise. It has been CWA's experience that this is not the case when workers participate in employer-sponsored programs, which can serve to hide the true extent of illness in a population of workers.

After 9/11, CWA negotiated with the major employers to allow eligible CWA members to go for a medical screening on paid work time. (Originally, a screening was being coordinated with the NYS Department of Health, before the creation of the WTC Worker and Volunteer Medical Screening Program.) When funding was provided for the WTC Worker and Volunteer Medical Screening Program, negotiations were for time off with pay to participate in this program. Lucent and NBC agreed to allow eligible CWA-represented employees to go for a screening on paid time at the WTC Worker and Volunteer Medical Screening Program. ABC would not agree because they had provided a company-sponsored screening. No summary information about the results of ABC's-sponsored program has ever been provided to the Union.

Verizon's screening program is another case in point. After months of negotiations with Verizon, Verizon initiated its own voluntary medical screening program, which began at approximately the same time as the WTC Worker and Volunteer Medical Screening Program. On July 12, 2002, Verizon sent a letter to employees' homes telling them about Verizon's program. Employees could go to one of several participating health centers on paid work time for a free screening to be completed by September 30, 2002. In contrast, Verizon would not agree to allow employees to go to the WTC Worker and Volunteer Medical Screening Program on paid work time, even though this would have been at no additional cost to the Company. This served to discourage some people from participating in the WTC Worker and Volunteer Medical Screening Program.

Since the completion of Verizon's medical testing program, several verbal requests were made by CWA District One to Verizon for summary information about Verizon's medical screening program and WTC-related workers' compensation claims. Each time a request was made, CWA made it clear that the Union was seeking an overall analysis of the program results, and each time Verizon refused to provide information. Verizon repeatedly stated that information could not be disclosed because employee medical information was confidential, even though this was not what the Union was asking for. In March 2004, CWA sent a written information request letter to Verizon asking for summary health information related to the screening exams sponsored by the Company, none of which was confidential medical information. Verizon responded in a letter dated May 7, 2004. Following are Verizon's responses:

1. When asked for the total number (not the names) of CWA members who participated in the Verizon-sponsored medical screening program conducted for employees who worked as part of the WTC response, Verizon's response was, "The Company agreed to provide testing (on Company time) because the employees that participated in the WTC response were concerned about their health. There were 900+ employees that participated in the Verizon-sponsored medical screening, however the numbers were not tracked by Union affiliation, Company department and/or titles."

2. When asked for the total number (not the names) of CWA participants in the Verizon-sponsored WTC medical screening program who were advised to seek follow-up, diagnostic medical services, Verizon's response was, "Again this is not information that was tracked: it is imbedded in each individual's medical records and would require a manual effort by a nurse to go through each [of the] 900+ records to make this determination."
3. When asked for any general reports or analyses of findings (not individual medical records) regarding the Verizon-sponsored WTC medical screening program conducted by Verizon or any of the participating medical facilities, Verizon's response was, "No such reports were prepared."
4. When asked for the total number of WTC-related workers' compensation claims filed by CWA members who are or were Verizon employees, Verizon's response was, "Workers' compensation claims have not been segregated or tracked to identify claims specific to WTC related issues."
5. When asked for the names of CWA members who filed a WTC-related workers' compensation claim, the corresponding case numbers, and the current status of each case, Verizon's response was, "Since WTC-related claims were not tracked, it would be a manual effort to supply the information requested and over 6,000 claims are received annually."
6. Verizon concluded the letter by stating, "The purpose of the testing was solely in response to employees concerns about their health. The Company was not conducting a study nor did it track any of the specific information you are requesting above, either for the medical screening or the (if any) workers' compensation claims. Based on the number of participants involved in the screening and the number of workers' compensation claims received annually, the work effort involved would be enormous and would require the services of a nurse. Perhaps there is a better way to approach the information you are seeking. If you can identify the members (perhaps by doing a Union canvas) that participated in the screening and those that filed claims we can narrow down the search and we can determine the timeline to get the requested information to you."

In essence, no information whatsoever was provided by Verizon to CWA about the overall results of the Verizon-sponsored screening or WTC-related workers' compensation claims.

To compound this problem, CWA has some preliminary evidence that 9/11-related workers' compensation claims are being routinely controverted by Verizon. At the request of CWA in March 2004, one of the workers' compensation law firms used by CWA searched its records for claims filed by CWA members employed by Verizon. For New York City only, 20 cases were identified -- 19 for Verizon and 1 for Empire City Subway, a subsidiary of Verizon. Of these 20 cases, two were traumatic, injury cases. Only the two injury cases had been established. All of the other cases, 18 in total, were controverted. The 18 controverted cases were for claims of respiratory illnesses (12 cases) and for Post Traumatic Stress Disorder (6 cases).

The controversion of workers' compensation cases related to 9/11 is another reason we believe the WTC Worker and Volunteer Program needs to be expanded to provide follow-up, diagnostic care for workers. This would enable the occupational health physician's in the WTC Worker and Volunteer Program to determine the work-relatedness of the illnesses and to submit the necessary paperwork needed to support a workers' compensation claim, when appropriate. Due to the definition and nature of the present screening program, this is currently not possible. Currently, workers who are provided with a diagnostic referral must seek care elsewhere and it is the physician providing the follow-up care who must establish the work-relatedness of the illness.

For the reasons described above, CWA District One strongly believes that additional federal funding should be allocated to provide for medical services for workers and other members of the community affected by the events of 9/11. We do not support the use of funds for the World Trade Center Health Registry implemented by the New York City Department of Health and Mental Hygiene (NYC DOHMH) in collaboration with the Agency for Toxic Substances and Disease Registry (ATSDR). We do not believe the WTC Health Registry is a substitute for a medical screening program, rather, it diverts needed resources that could be put to better use. Due to poor design, we also do not believe the Registry can yield valid results, nor will it be able to answer many of the questions it claims it will be able to answer about the health of New Yorkers affected by 9/11. Poor participation rates further erode the validity of the data collected. Without the needed statistical power as calculated in the Registry protocol, the true extent of specific health effects, such as asthma, cannot be accurately determined. This can lead to a gross underestimate of disease in the population of affected workers and residents. There is also no apparent system in place for decisions about what research will be conducted using the Registry data collected (other than requirements for Institutional Review Board approvals) nor is there a process in place for the affected community of workers and residents to have a say in the decisions about research.

In conclusion, CWA District One makes the following recommendations:

1. Adequate funding should be provided for the current WTC Worker and Volunteer Medical Monitoring Program so that the program can:
 - Provide periodic (every 12 – 18 months) medical examinations for all affected workers and volunteers involved in the WTC rescue, recovery, restoration and clean-up efforts for a period of 30 years. (The 30 year timeframe is already a precedent in several OSHA standards, e.g., 29 CFR 1910.1020 Access to Employee Exposure and Medical Records and 29 CFR 1910.1001 Asbestos. The requirement for employers to maintain medical records for 30 years, and in some cases in addition to the duration of employment, is because of the long latency periods for certain diseases, e.g., mesothelioma.);
 - Provide treatment to those workers and volunteers in need of follow-up care, including mental health services;

- Provide periodic medical examinations and follow-up care for other workers, such as office workers, and residents in areas impacted by WTC contamination.

Additionally, funding should be provided for the continuation of the WTC Worker and Volunteer Medical Monitoring Program Data and Coordinating Centers (DCC's) for the maintenance of medical records, coordination of outreach and education activities, and for overall program quality assurance. To ensure program continuity, the WTC Worker and Volunteer Medical Monitoring Program should be provided by the current participating consortium of occupational and environmental clinical centers and the Mt. Sinai Center for Occupational and Environmental Health should continue to be the DCC for the other responders' program, (i.e., non-firefighter).

Funding should also be provided for research on the 9/11 health effects and treatment modalities.

2. In the event of future disasters, all workers who respond to the scene of an emergency, and who are involved in rescue, recovery, restoration and/or clean-up activities related to the emergency, should be included in medical monitoring and other benefit programs. Medical monitoring programs should also include affected members of the community.
3. A process should be established and a program developed for government-sponsored medical monitoring and surveillance for workers and affected members of the community in the event of future terrorist disasters. The WTC Worker and Volunteer Medical Monitoring Program should be a blueprint for such a program. The lessons learned and best practices from the current program should be used to fashion an emergency medical monitoring program for future incidents so that immediate medical care and surveillance can be provided, if needed. Leading occupational and environmental health centers and other institutions that can provide the appropriate services should be identified across the country. Other resources and experts who can be called upon as "consultants" for such an emergency medical monitoring program should also be identified, e.g., experts in biological exposures, radiation exposure, etc. Oversight of such a program should always include representatives of the affected groups (workers and/or residents).
4. Additional funding should not be provided for the continuation of the ATSDR/ NYC DOHMH WTC Health Registry. Rather, this funding should be used to provide real medical services, as previously described.
5. For future emergencies, agencies should continue to enforce those applicable laws and standards within their jurisdiction necessary for the protection of the health of workers and the public. An emergency is not the time to relax or ignore standards, as was the case following the WTC disaster. Collaborative models, such as the one embraced by OSHA at Ground Zero, should not be allowed.

Thank you.