



**DEPARTMENT OF HEALTH & MENTAL HYGIENE
OFFICE OF CHIEF MEDICAL EXAMINER
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October 31, 2006

Carolyn B. Maloney - Member of Congress
Vito Fossella - Member of Congress
Congress of the United States
Washington, DC 20515

Re: Felicia Dunn-Jones, deceased

Dear Rep. Maloney and Rep. Fossella:

Thank you for your letter inquiring about Mrs. Dunn-Jones. I welcome the opportunity to respond to your concerns.

At the request of the attorney representing the survivors of Mrs. Dunn-Jones, I reviewed her medical examiner records, including the autopsy. Also, I was provided the finding of Special Master Kenneth Feinberg and the reports of Dr. David Prezant and a physician who treated Mrs. Dunn-Jones during life.

All persons killed at the World Trade Center on September 11, 2001 and others who later died from complications of injuries sustained due to the collapse of the twin towers are homicide victims. If Mrs. Dunn-Jones subsequently died from inhaling World Trade Center dust on September 11, 2001, she too would be a homicide victim, just as if she had been crushed by a falling building. The burden of proof that we require to render a judgment of homicide is certainty beyond a reasonable doubt. In contrast, the much lighter burden of proof required to sustain a civil action is preponderance of the evidence, which is anything greater than 50%.

I respect the conclusion of Mr. Feinberg, but ask you to recognize that his burden of proof is lighter than mine. Also, Mr. Feinberg received medical opinions supporting the position of her family, but I do not know if he was presented with medical reports or opinions that expressed reservations or doubts about the underlying causation of her fatal disease. Likewise, I respect the professional opinions of Dr. Prezant and Mrs. Dunn-Jones' treating physician, but it is my responsibility to exercise my own professional judgment, balanced

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against the degree of proof required to classify the manner of her death as homicide. After careful deliberation and discussions with the medical examiner who performed Mrs. Dunn-Jones' autopsy and other senior medical examiners at our agency, we concluded unanimously that we could not link her death to inhalation of World Trade Center dust with certainty beyond a reasonable doubt.

Your letter also requests that we "further examine developing a mechanism to independently adjudicate requests to include additional individuals on the official list of deaths from the terrorist attacks of 9/11." The means are already in place to make independent evaluations of deaths in which there are implications for criminal prosecution or civil litigation, including the claims of persons exposed to World Trade Center dust. That independent exercise of judgment is standard operating procedure at the Office of Chief Medical Examiner. In the course of our routine work, we have repeatedly rendered conclusions adverse to the corporate interest of New York City. Further, our record speaks for itself in the evaluation and classification of deaths for which New York City employees may bear criminal responsibility. I submit to you that it is impossible for a well informed, fair minded person to have the slightest doubt about the independence of New York City medical examiners.

Finally, I wish to inform you that we are active participants in the production of "Standardized Postmortem (Autopsy) Evaluation Guidelines for Individuals Dying After Environmental Exposure Related to the Collapse of the World Trade Center on September 11, 2001." This project is being done under the leadership of the Division of Respiratory Disease Studies, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

Sincerely,



Charles S. Hirsch, MD
Chief Medical Examiner
City of New York

CSH/ar