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VIA FAX

Hon. Michael Bloomberg
Mayor-Elect
City of New York
126 East 56th Street
New York, N.Y. 10022

Re: NYC EMS Problems

Dear Mayor-Elect Bloomberg:

I'm writing this letter to advise you of certain significant problems in the New York City Emergency Medical Service. As you may know, the New York City Emergency Medical Service was merged into the NYC Fire Department in 1996. Prior to that, NYC EMS was operated by the New York City Health and Hospitals Corporation. This letter expresses my personal opinions about what I perceive to be serious threats to the continued delivery of high quality pre-hospital patient care by EMS in New York City. Indeed, I would hope that your Administration would consider making NYC EMS a free-standing municipal agency with full jurisdiction over all of the million plus EMS 911 calls received in this City annually.

While I will concede that the Giuliani Administration did a good job in handling the World Trade Center (WTC) Disaster, I would hope that you would consider these more carefully hidden EMS issues when you decide on a new Fire Commissioner for your Administration. This letter is not intended to disparage any of the hundreds of Police, Fire and EMS professionals who sacrificed their lives in the WTC Disaster nor any of the many government and civilian agencies and their personnel who responded so well to the disaster. Rather, it is intended to show that the current FDNY Administration has been less than truthful in its operation of NYC EMS over the last several years.

By way of introduction, I am a senior Paramedic with twenty-eight years experience in the NYC Emergency Medical Service. I have been a strenuous opponent of this so-called "merger" between New York City EMS and the New York City Fire Department. I, along with another EMS Paramedic, brought an unsuccessful lawsuit in State Supreme Court that sought to have this merger reversed. I also brought an unsuccessful "False Claims" action in Federal Court that alleged that the Medicaid/Medicare ambulance

billing procedures being used by FDNY is illegal in nature. More recently, I brought a First Amendment Retaliation lawsuit that alleges that I was retaliated against by FDNY because I called for Fire Commissioner Von Essen's resignation before the New York City Council over the Motorola digital portable radio purchasing scandal.

First Amendment Issues:

Over the course of the last eight years, the Giuliani Administration has imposed a number of "gag orders" that have prohibited city employees from contacting or speaking to members of the news media. In fact, the Giuliani Administration has the dubious distinction of losing some 25 First Amendment lawsuits in federal court during that time.

In 1999 the Fire Department imposed a "gag order" on the civilian members of the New York City Fire Department. This EMS Operating Guide Order prohibited members of New York City EMS Bureau from talking to members of the news media about any aspect of EMS or Fire Department operations. The imposition of this "gag order" directly violated a 1989 commitment made to the Federal Court that New York City EMS would maintain a constitutional Operating Guide procedure that allowed us to speak to members of the City Council and/or news media to express our personal opinions about the operations of EMS. This constitutional Operating Guide Procedure had been in place for 10 years following an earlier First Amendment lawsuit that I had brought against New York City EMS in the eighties when a similar "gag order" was put into place.

This 1999 FDNY Gag Order is still in effect as this letter is prepared. More importantly, FDNY has even subpoenaed the actual names of EMS members have posted comments critical of EMS/FDNY operations on an America Online EMS Bulletin Board. In my opinion, this "gag order" has been resurrected in order to "cover-up" the negative aspects of the EMS/Fire Merger. These merger shortcomings include:

- 1) The fact that FDNY has not been able to deliver on the response time representations it made to the New York City Council at the time of the merger;
- 2) The fact that FDNY and the Giuliani administration have unilaterally imposed subcontracted private vendor 911 ambulances in the NYC 911 system that are operated by a major campaign contributor to the Mayor;
- 3) The fact that FDNY allows these privately operated ambulances, along with the hospital based 911 ambulances, to engage in systematic "patient steering" that diverts paying patients away from the HHC Emergency Rooms;
- 4) The fact that FDNY may well have raided the New York City EMS budget for up to \$10 million in order to pay for the unapproved Motorola digital portable radios that FDNY purchased over the last several years;
- 5) The fact that FDNY has issued a contract for new ambulances to an unqualified vendor who has never built any NYC EMS ambulances to the high

standards required by NYC EMS and who has failed to timely deliver serviceable ambulances under this contract.

NYC Council Memo Of Understanding and EMS Response Time Issues:

The Giuliani Administration sold the City Council on the EMS/FDNY merger in 1996 based on a variety of representations made for EMS operations and response time in the future. FDNY has simply been unable to meet the rosy response time projections for both EMT and Paramedic care contained in the Memorandum of Understanding that the City Council entered into with the Giuliani Administration concerning the EMS/Fire merger. {Please see attachment # 1, which is the City Council Memorandum of Understanding.} While it is true that the average Priority 1-3 [Life-Threatening] response time has been reduced about 30 seconds to approximately eight minutes, HHC had accomplished the same when adequate EMS funding was put into place.

Some of the other MOU representations have been violated outright by FDNY—such as the FDNY Administration firing Dr. Lorraine Giordano, who was the NYC EMS Medical Director, and replacing her with a FDNY chosen non-MD Assistant Commissioner. FDNY also violated their commitment to keep the EMS specialty units in operation. These NYPD Emergency Service type EMS Special Operations response units have been eliminated by FDNY within the last year.

To obtain the City Council's approval of this merger, the Giuliani Administration also promised that FDNY would build a number of community based ambulance stations in the City. While perhaps a third of these stations have been built, there are still many areas of the City that have no local ambulance station. While EMS does not operate out of "ready line" garages, having supporting facilities in each community does help reduce EMS response times to the area.

Moreover, the EMS call volume in this city simply proved too much for FDNY units to handle. FDNY suggested that they would be able to respond as Certified First Responders (CFR) to a large number of the approximately 500,000 life-threatening calls received by the EMS 911 system annually. The fact of the matter is that FDNY is responding to just a small percentage of these calls because FDNY units have to of course remain available to fight fires. While I think the First Responder Program has been good for this City, a more effective approach to dispatching these CFR units has to be found. While EMS/FDNY dispatching is outside the scope of this letter, improving same in a cost-efficient manner is an area that could certainly save lives in the future.

911 Contract Ambulances and Patient Steering:

I noticed on your web site that you were concerned about the amount of money that HHC spent on uninsured medical care. Certainly HHC is a unique institution that provides an

essential medical service to all New Yorkers. But the downsizing of HHC was an objective under the Giuliani Administration. While that didn't happen, the merger of EMS with the Fire Department made the transportation of 911 patients to various HHC Emergency Rooms much more problematic.

Under FDNY's administration, the number of privately operated 911 ambulances has increased significantly. While FDNY will tell you that privatization has saved the taxpayers money, the opposite is true. In 1999 Comptroller Hevisi conducted a study of the hospital transportation patterns of approximately 250,000 NYC 911 calls. Comptroller Hevisi proved that the so-called "voluntary" NYC hospitals that were operating under contract to the EMS/FDNY Administration transported approximately 90% of their patients back to their originating voluntary hospital Emergency Rooms. On the other hand, municipally operated EMS ambulances transported approximately 66% of their patients to voluntary hospital ERs. The remaining NYC EMS patients were transported to HHC Emergency Rooms.

Comptroller Hevisi went on to prove by analyzing patient subgroups that the voluntary hospital ambulances were engaged in illegal patient steering. Steering of vulnerable patients in need of emergency treatment is prohibited by Federal Law but was difficult to prove until this audit was prepared. [The results of this audit were only released this year.] The details of this audit show that many voluntary hospitals are pressuring their EMT and Paramedic employees to transport patients back to their employing hospitals if they want to keep their jobs. The result is that these contracted out ambulances divert paying patients away from the HHC Emergency Rooms and thereby increase the HHC operating deficit.

This patient diversion has been made worse by the more recent inclusion of private, for-profit ambulances as subcontractors to the most of the other NYC voluntary hospitals that did not possess an Ambulance Operating Certificate. While these commercial units did not operate in the system when the Hevisi audit was prepared, these subcontracted units are out there to maximize the number of paying emergency patients that are returned to the respective non-HHC institutions. The FDNY Administration has assisted these hospitals in this "steering" effort by assigning these hospital based or private units to the wealthier areas of the city where paying patients are more likely to reside.

It is equally interesting to note that when EMS Local 2507 and certain Borough Presidents sued over the inclusion of private ambulances in the 911 system, that the Giuliani Administration stepped in to challenge this "franchise" lawsuit on jurisdictional grounds. This lawsuit therefore remains stalled in the State Supreme Court while the private ambulances of an important campaign contributor continue to operate in the NYC 911 system. {Please see Attachment # 2, which is my letter to the Editor of The Chief-Leader, which explains these issues in greater detail.} In my view, the best way to

correct this serious patient steering problem is to expand NYC EMS so that it is primarily responsible for providing 911 emergency ambulance coverage throughout the City.

Motorola Digital Portable Radio Scandal:

The Motorola Digital Portable Radio scandal occupied the pages of the newspapers in spring of 2001. In brief, the Fire Department improperly purchased approximately \$14 million dollars of new portable radios using an existing \$3 million dollar replacement contract. Worse, these digitally based radios are not as reliable as the current analog radios for emergency applications. [Other jurisdictions have had similar problems with digital radios failing to “get out” to the Dispatcher as effectively as the existing analog portables.] As a result of technical problems with these digital radio transmissions, a NYFD Firefighter almost lost his life when his “Mayday” calls were not heard on a fire ground.

Needless to say, the Fire Unions demanded that these digital radios be immediately removed from service. Their successful efforts resulted in an investigation by Comptroller Hevisi who questioned how the Fire Department Administration could use this replacement contract to purchase thousands of these Motorola Digital Radios. When the City Council held hearings on these digital portable radio problems in April of 2000, your writer presented testimony to the City Council that called for FDNY Commissioner Von Essen’s resignation because of this misconduct.

In my opinion, the Fire Administration raided the NYC EMS budget for millions of dollars in order to pay for the unauthorized radio purchase. An example of the significant budget cutbacks that FDNY visited on the EMS budget while this unauthorized radio purchase was in progress included the elimination of the EMS Special Operations Units in violation of the City Council Memorandum of Understanding. {Please find my City Council Testimony appended as Attachment # 3.}

Kindly note that my testimony also included a broadside against the FDNY Administration arbitrarily removing the NYPD frequencies from the new EMS portables. To illustrate how dangerous this FDNY position actually is, I note that recently two EMS ambulances encountered a retired Police Officer who was suffering from a hypoglycemic episode secondary to his diabetes. As a result of this medical condition, the officer failed to recognize that the responding EMS ambulances were there to assist him. The ambulances did not have the NYPD Dispatch Frequencies in their new EMS portables and could not contact NYPD Dispatch directly for assistance. Fortunately the ambulance crews were able to disarm the disoriented officer without NYPD assistance. By the time a NYPD Sector Car arrived through the respective Dispatch channels, the patient had regained his normal mental status. This incident could have easily have turned into a senseless tragedy because of Fire Administration’s insistence on stripping EMS units of a safety net that EMS units have used for twenty year’s time.

EMS Ambulance Purchases by FDNY:

NYC EMS/HHC had a variety of mechanical difficulties with the then gasoline ambulances that they purchased in the 1980's.¹ These ambulance difficulties contributed to poor EMS response times and triggered various investigations of ambulance purchase procedures. In 1990, the incoming EMS Administration, then headed by EMS Chief Diggs, formed a new Ambulance Committee that was charged with developing a heightened ambulance specification that could produce ambulances that could survive the tortures of New York City operations. The Ambulance Committee included representatives from all branches of EMS. Your writer was appointed to serve on this Ambulance Committee as a representative of EMS Local 2507. At the suggestion of the HHC Inspector General, most of the ambulances purchased by the EMS Ambulance Committee were purchased through the Request for Proposals (RFP) process.

The Committee first went about developing a high quality NYC EMS ambulance specification for the new diesel ambulances that in many areas exceeded the minimum federal requirements for ambulance construction by a factor of two or three. For example, the boxes of NYC EMS ambulances have specially reinforced bulkheads and floors as well as special ambulance box to chassis mounts in order to survive the vehicle stresses caused by this City's poor roads. These ambulances have standardized electrical systems that are easier to repair and that do not use ambulance manufacturer's sole source electrical parts. These same ambulances also have extra heavy-duty alternators installed so that these ambulances can idle at the scenes of emergencies for long periods with their emergency lights on. All told, the NYC EMS ambulance specification runs some sixty pages in length.

Over the next six years (1990-1996), EMS/HHC purchased hundreds of special NYC EMS ambulances from two ambulance manufacturers: Wheeled Coach Ambulance of Florida and Horton Ambulance of Ohio. While some minor technical problems were encountered in these purchases, during this period EMS/HHC was able to completely replace the hundreds of ambulances then in the EMS fleet with the specially designed NYC EMS ambulances. Almost all of these special EMS ambulances are still in service today.

When the Fire Department took over in 1996, they wisely extended the then existing Horton Ambulance Purchase Contract for a couple of years. [FDNY said they didn't want input from the unions and removed your writer from the Ambulance Committee as soon as they took over.] Approximately two years ago the FDNY Administration sent out a new bid for EMS ambulances. Although this bidding process was a closely held

¹ Because of a series of dangerous gasoline fed ambulance fires in the 1980's, Ford Motor Company mandated that all new ambulance chassis constructed by Ford in the future would be powered by diesel engines only. Because of prolonged idling times or collisions, NYC EMS ambulances had also experienced a number of ambulance fires as well before diesels were introduced.

secret, the FDNY Administration selected what in my view was an unqualified bidder to build hundreds of EMS ambulances over the next five years. With much fanfare, FDNY selected McCoy-Miller of Indiana to build their new ambulances. However, McCoy-Miller had never built even one ambulance to the high NYC EMS specifications. Nevertheless, FDNY gave them the entire ambulance needs contract for possibly 500 ambulances over the next five years without requiring McCoy-Miller to prove that they could build ambulances to the rigid NYC EMS standards. This was a major departure from the usual FDNY procedures that provide for extensive testing of equipment from previously unapproved vendors. Instead, FDNY should have used the RFP Procedure and selected a bidder with a proven track record of building high quality EMS ambulances for NYC.

So far, McCoy-Miller's efforts to build high quality EMS ambulances has been an awful failure. Starting in 2001, McCoy-Miller sent several prototype ambulances to EMS/FDNY that were so lacking in quality and/or contract compliant construction that they were rejected outright. Eventually McCoy-Miller delivered approximately twenty ambulances that were been accepted for field use in NYC EMS. But these ambulances have been plagued by electrical and air conditioning problems among other shortcomings. As I understand it, many of these ambulances have again been returned to the vendor for further repairs. While I am not exactly sure of the status of the McCoy-Miller ambulances at this time, it is clear that EMS has not received the nearly 100 replacement ambulances that should have been received under the contract by this time. Obviously, the failure of this ambulance vendor has placed the entire NYC EMS ambulance operation in great jeopardy. As I understand it, things have gotten so bad in the NYC EMS fleet that EMS has stopped releasing older EMS ambulances to salvage but have been forced to refit them for field use. ²

In sum, the replacement of the entire NYC EMS ambulance fleet has been given to an unqualified bidder that has certainly failed to perform to contract standards. Yet the FDNY Administration has stuck by their vendor while keeping the lid on the extensive problems McCoy-Miller is having in delivering serviceable ambulances to NYC EMS. Given the above, I respectfully urge you to make the purchase of contract compliant NYC EMS ambulances from a qualified vendor a top priority of your Administration.

There are many other issues, such as EMS personnel retention and better patient care, facing NYC EMS that will have wait for another day. But in the meantime, I hope this letter has shed some light on the critical EMS issues that are lurking just below the surface as you assume office. I would also hope that this letter would help guide you in your choice of a new Fire Commissioner for your Administration. As you can see from

² While NYC EMS did lose ambulances in the World Trade Center Collapse, the loss of actual EMS ambulances was not as great as the loss of Fire apparatus.

this letter, a substantial amount of taxpayer's dollars could be saved if the procurement problems were corrected in the Fire Department. Similarly, HHC could certainly benefit from a more level playing field in the transportation of emergency patients to its Emergency Rooms. The issues touched upon in this letter are some of the many reasons why I would hope you would consider making NYC EMS into a separate uniformed agency in the future.

If I can be of further assistance in any way, please page me at 1-800-225-0256, Pager ID # 80816. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard J. McAllan", with a long horizontal line extending to the right.

Richard J. McAllan

Attachments