

Testimony of Harry Nespoli
President
Uniformed Sanitationmen's Association
International Brotherhood of Teamsters Local 831
Before
New York City Council Committee on
State and Federal Legislation

Hon. Karen Koslowitz
Chairperson

Friday, May 29, 2015

Good Morning. I want to thank the Chair, Councilperson Koslowitz and the members of the committee for your time and attention. We are here today for very important business.

We are here to right a horrible wrong and money is not the issue.

We are here to speak out in support of legislation which will ensure the disability benefits for our members, and the other uniformed services, injured while on the job are fair and equitable.

Prior to 2010 there was a commitment which assured New York's Police, Fire, Corrections and Sanitation workers who were unable to work due to a work related injury a lifetime pension of three-quarters of their salary. It was a commitment made by New York in 1976 and maintained and supported by New York governors for nearly 35 years!

It all changed in 2009, and it did not take long before its devastating impact was felt by our members.

When more than 70,000 men and women sat down for the Sanitation exam in 2007, they knew it would be a tough job, but it was a good job. It was a job that would allow them to live a decent life and provide for a family.

One young man- an athlete- sat down and passed the Sanitation exam in 2007. He knew it would be a tough job, but it was a good job. It was a job that would allow him to live a decent life and provide for a family.

He also knew, if anything bad happened on the job, and he could no longer work, the City would be there to help by providing a decent pension. There was never any reason to question that promise.

After waiting nearly five years on the hiring list the young man was hired in July of 2012. One year later, in June 2013 his world was literally turned upside

down, when while hauling garbage he was hit by a passing truck, tossing him into the hopper and crushing and almost severing his leg.

As devastating as his injuries, was the realization that City's long-held promise of a secure a fair and equitable pension that existed when he took the exam in 2007 had been broken.

Rather than a pension of 75% of their annual final salary, those men and women who put their lives on the line would be eligible to receive little more than half of that 75% minus any Social Security benefits! They and their families would be asked to survive on a benefit that is less than the administrations' \$15 per hour minimum wage goal.

According to the most estimates by the end of this year more than 1,100 of my members will fall under the pension revision of 2009.

This young man is the first of our members who faces the prospect of living on a substandard disability pension. According to the most recent estimates by the end of this year more than 1,100 of my members will fall under pension revision of 2009.

It's just not right. The commitment to serve the citizens of New York City is still there- what happened to the government's commitment?

The state legislature knows it's not right. The governor knows it's not right. Mayor de Blasio knows it's not right. As we know he has already introduced an alternative.

But even his proposal falls far short of fulfilling the mutual pact made by the uniformed forces, including my members, and the citizens of New York City.

Let's do the right thing. Let's send a message to Albany. Let's right a terrible wrong!

Thank you.

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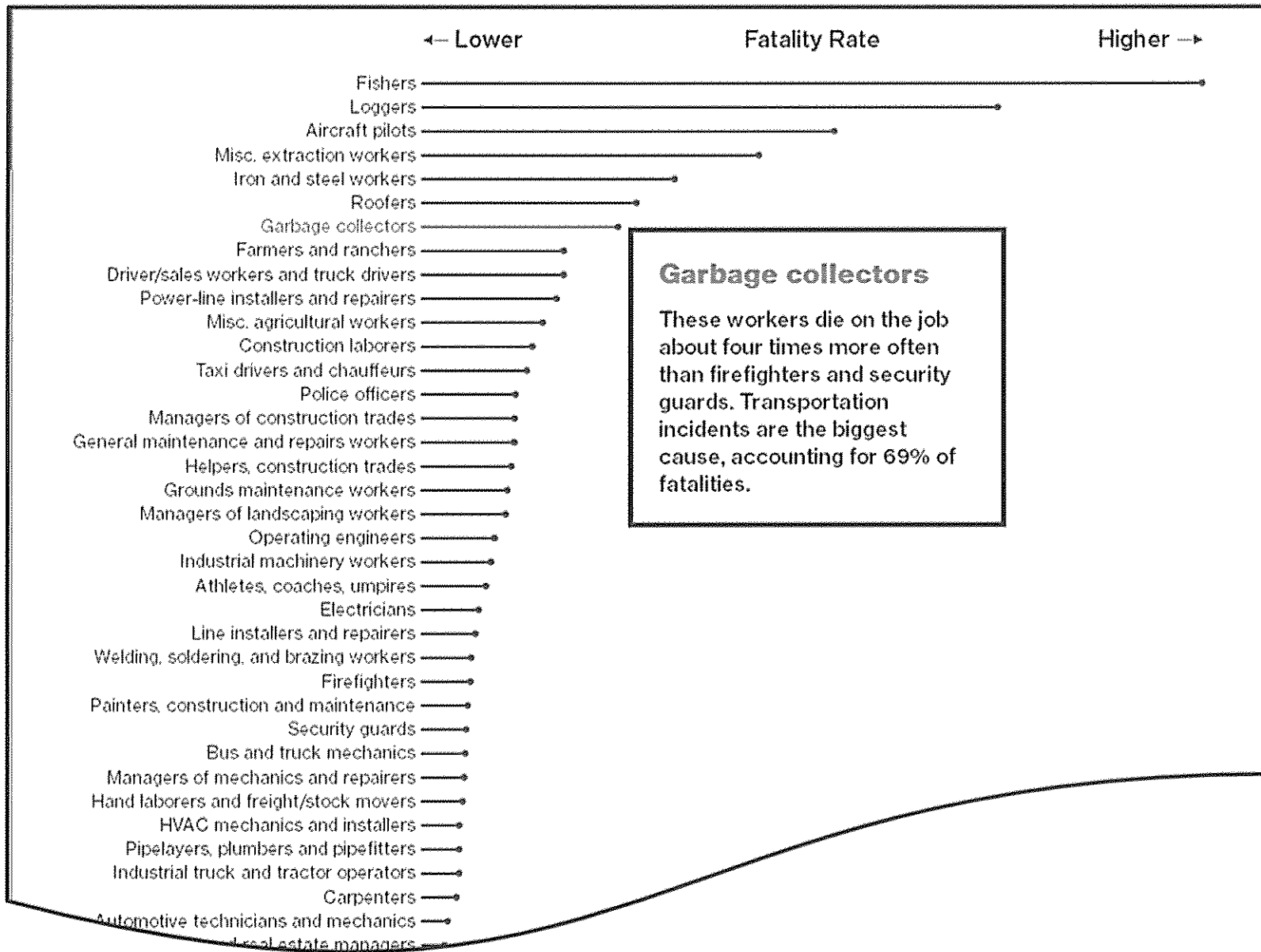
The Deadliest Jobs in America

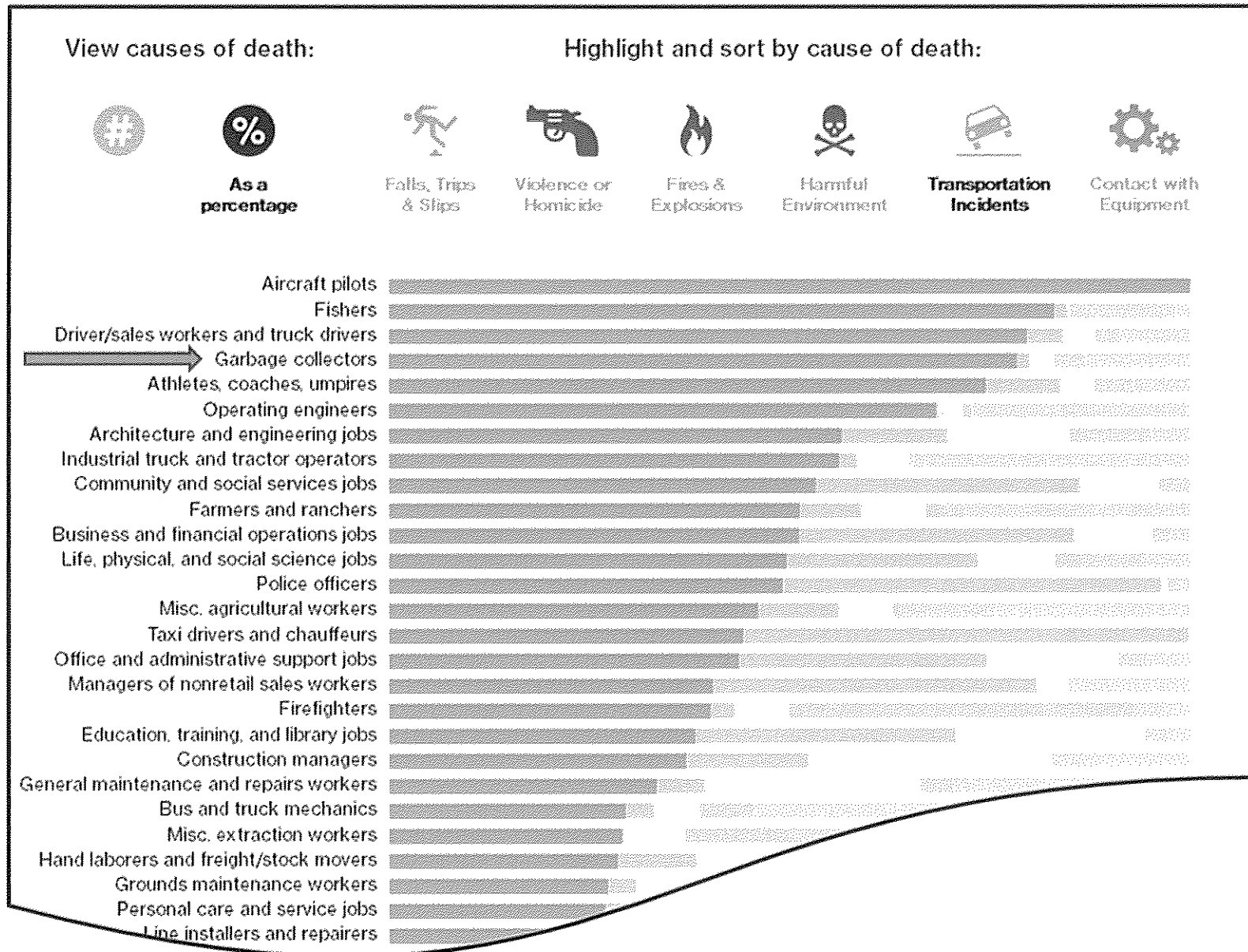
May 13, 2015

The U.S. Department of Labor tracks how many people die at work, and why. The latest numbers were released in April and cover the last seven years through 2013. Some of the results may surprise you.

Which of these workers is most likely to die on the job?

		
Security guards	Firefighters	Garbage collectors
		





BY: Christopher Cannon, Alex McIntyre and Adam Pearce

SOURCE: U.S. Bureau of Labor Statistics

METHODOLOGY: Bloomberg analyzed select occupations based on the rate of on-the-job fatalities. Figures shown are the number of annual deaths per 100,000 full-time workers, where full-time is defined as 2,000 hours per year (50 weeks per year at 40 hours per week). Data represent averages from 2006 through 2013, the latest available year. Figures prior to 2006 were excluded, as the BLS data for these years only included the number of workers per occupation, not the total hours worked by all workers. Occupations with fewer than three years of available data were excluded, as were occupations for which the BLS did not have corresponding pay data.

The BLS database contained "miscellaneous extraction workers" in 2009, 2010 and 2013 and "other extraction workers" in 2011 and 2012; these occupations were considered identical and figures for the two were combined using the former designation. Some longer BLS job titles were edited for brevity. All pay data are for 2013. Fatality figures include the deaths of volunteer workers. Military occupations were excluded.

Eye on the News

MATTHEW HENNESSEY

The Toughest Job in Town

A recent death highlights the risks of being a New York City sanitation worker.

June 27, 2014



PHOTO BY NYC DEPARTMENT OF SANITATION

Last week, 43-year-old New York City sanitation worker Steven Frosch was killed when he was struck by a street sweeper at a Sanitation Department garage in Maspeth, Queens. He had been a sanitation worker for 15 years. Though it was the DSNY's first line-of-duty fatality since 2011, it was nonetheless a tragic reminder that removing the city's trash is among the most dangerous jobs around.

Frosch left the New York police department in 1999 after five years as a city policeman for what he thought would be a safer job. It's a common misconception that sanitation work is less risky than being a cop or a fireman, according to NYU anthropologist Robin Nagle, who documented her experience toiling alongside New York's Strongest in a 2013 book, *Picking Up*. "Sanitation work is not as dramatic as working for the police or fire departments," she says. "But these guys are working all day around hulking pieces of heavy machinery. There's not a lot of room for error." In 2001, mayoral candidate Michael Bloomberg caught heat for saying something similar. "I bet you could find statistics that say being a sanitation worker in this day and age is more dangerous than being a policeman or a fireman," Bloomberg told an audience at Tavern on the Green. "Every day these guys are hanging off the back of a truck. And they are dealing with medical waste. It's a dangerous job."

Though he was blasted by representatives of the Patrolmen's Benevolent Association and the Uniformed Firefighters Association, Bloomberg was right. According to the Bureau of Labor Statistics, "refuse and recyclable material collectors" consistently have one of the highest rates of on-the-job fatalities. Only loggers, fishermen, aircraft pilots, roofers, and

steel workers were at greater risk of dying on the job in 2012, the last year for which data are available.

“While the fatality rate for all occupations is 4.7 deaths per 100,000 workers, garbage collectors die at a rate of 46 per 100,000,” wrote journalist Elizabeth Royte in her 2005 book *Garbage Land: On the Secret Trail of Trash*. “In fact, they’re approximately three times more likely to be killed on the job than police officers or firefighters.” Before Frosch, who was the 17th sanitation worker to die in the line of duty since 2000, 16-year veteran Thomas Lermund, 48, was the last Gotham sanitation worker to die on the job. He collapsed behind the wheel of a DSNY truck while working his Brooklyn route in 2011. Excluding 9/11-related deaths, the 35,000-member NYPD had 21 line-of-duty deaths since 2000. The FDNY, with almost twice as many uniformed employees as the 7,300-person strong DSNY, had 25 non-9/11-related deaths in that same period.

Nagle says that the public doesn’t appreciate just how dangerous sanitation work is. “We don’t often hear gunshots in the street, but we see garbage every day,” she says. “People think, ‘How could something so mundane be the source of such hazard?’” But it is—and the fatalities are just one window on that danger. A study done in the 1980s by one-time New York City health commissioner Joseph Cimino found that sanitation workers had higher rates of chronic diseases than other male workers, including respiratory and heart disease, arthritis, and back problems. DSNY reported 1,457 work-related injuries to its uniformed workers and supervisors in 2013. Accidents went up 5 percent from 2012 to 2013.

Traffic is the biggest culprit. Sanitation workers move in and out of New York’s busy streets all day. “We have laws about going around a school bus, but people think nothing of trying to squeeze past a sanitation truck,” says Nagle, who has been the DSNY’s “anthropologist-in-residence” since 2006. Rookie sanitation worker Danny Interlandi almost lost his left leg last year when he was struck by a drowsy driver in a rented truck on a Brooklyn street. In 2011, 27-year-old sanitation worker Michael Russo spent three weeks in a coma after being hit by a driver trying to get around his truck in Whitestone, Queens. In 2010, 11-year DSNY veteran Frank Justich was struck and killed by a milk-delivery truck on Ditmars Boulevard in Astoria, Queens.

It’s not just the traffic, the heavy lifting—sanitation workers lift up to six tons a day—or the heavy machinery that makes the job so dangerous. It’s the trash itself, which can be a toxic brew of hazardous materials. The sanitation collection trucks’ massive compactor blades frequently cause bagged trash to burst, leaving workers vulnerable to flying metal objects and clouds of poisonous substances. In 1996, 22-year sanitation worker Michael Hanly died after inhaling hydrofluoric acid that exploded from a gallon-sized container being crushed

in the hopper of his truck. His partner, Thomas Giammarino, came to his aid and was also severely injured.

Improved truck design could make sanitation work safer. So could a law against passing stopped collection trucks. Such a measure would likely be unpopular with city drivers, but Mayor de Blasio should consider it as part of his Vision Zero campaign to reduce traffic-related fatalities.

In 2004, 41-year old Eva Barrientos became the first female sanitation worker to die in the line of duty when she was crushed to death by a mechanical lever on her collection truck. At the time, she was one of just 153 women in the then-6,000 member department. Her Red Hook funeral was attended by more than 1,000 DSNY officials and workers. Steven Frosch, meanwhile, leaves behind a wife and four young children—and a sanitation department whose workers proudly call themselves the city's strongest, but who may actually be its most vulnerable.

Matthew Hennessey (@matthennessey) is an associate editor of City Journal.

Assemblyman Peter J. Abbate, 49th Assembly District

Testimony for NYC Council Hearing on ¾ Disability

Friday May 29, 2015

10am

Good Morning. My name is Peter Abbate, Assemblyman from the 49th District. As many of you may know we have been dealing with the restoration of ¾ disability benefits for first responders since 2009. Before I get into discussing each proposal separately I'd like to give you a run down on the history of how we came to be where we are at.

In 2009, Governor Paterson vetoed a Tier 2 extension bill for all New York State Police, and Fire pension members. In Veto Memorandum 5, Governor Paterson stated that due to the "recession and fiscal crisis," as well as the Comptroller's announcement that the "New York State Pension Fund lost 26% of its value in the most recent fiscal year," led to his decision not to "ignore the present reality, and simply re-enact the same provisions that have contributed to New York's financial straits, without accompanying reform." This reform, which was Tier V, was approved on December 10, 2009 as Chapter 504 of the Laws of 2009.

Shortly after Governor Paterson issued Veto Memorandum 5, the Police and Fire unions outside the city of New York negotiated with management and agreed to a Tier V benefit plan. The Mayor of New York City would not agree to the same benefits, resulting in no new pension plan agreement covering New York City Police and Fire members. With no new pension plan, New York City Police and Fire members defaulted into the original Article 14 Tier III pension plan. Tier III provides very limited disability benefits, which are only 50% of the member's final

average salary, which is reduced by 50% of the primary social security benefit received. Tier II members receive an accidental disability benefit equaling 75% of the member's final average salary with no reduction for primary social security benefits received by the member.

In addition to this fall out other uniformed first responders in the city were also affected. Being there was not a new Tier negotiated in the City like there was state wide, any new employees hired not only of Police and Fire but sanitation and corrections were now subject to tier III benefits of the retirement system.

Just to give you some background about Tier III, the Tier provides very limited disability benefits, which are only 50% of the member's final average salary, which is reduced by 50% of the primary social security benefit received. Correction and Sanitation Tier IV members receive an accidental disability benefit equaling 75% of the member's final average salary with no reduction for primary social security benefits received by the member. When Tier VI was adopted on April 1st, 2012, newly hired correction and sanitation members were now placed into the same Tier III plan applicable to New York City Police and Fire members.

So that is the history and background as to how we came to the position that we are in. I will now begin discussing the proposals in front of us.

My proposal A6046 would restore the $\frac{3}{4}$ disability benefits for Police and Fire members in the City of New York to put them in line and make them equitable with the rest of the uniformed forces of the state.

The current plan Police and Fire Tier III provides very limited disability benefits, which are only 50% of the member's final average salary, which is reduced by 50% of the primary social security benefit received. Tier II members receive an accidental disability benefit equaling 75% of the member's final average salary with no reduction for primary social security benefits received by the member.

An example in the difference in these benefits is illustrated by the potential accidental disability benefits that would be provided to Police Officer Kenneth Healey. On October 23, 2014, a man wielding an 18 inch hatchet struck Officer Healey in the head while he was standing on a sidewalk with three other police officers in Jamaica, Queens. As a result of the attack Officer Healy was hospitalized for five days and has undergone two surgeries on his skull. If Officer Healy received an accidental disability pension due to his injuries, the amount of the pension would be approximately \$21,000 per year, with a reduction in an amount equaling 50% of any primary social security benefits that he may receive. If Officer Healy was eligible to receive Tier II accidental disability benefits, he would receive approximately \$31,500 per year without any reduction for social security benefits.

Another example of this inequity is illustrated by the potential accidental disability benefits that would be paid to Police Officer Rosa Rodriguez. Officer Rodriguez was injured when she and her partner responded to an apartment fire in Coney Island that was set by a teenager. She and her partner, Police Officer Dennis Guerra, were overcome by smoke in the burning building. They were both rushed to the hospital in critical condition. Officer Guerra died four days later as

a result of his injuries. Officer Rodriguez was in a coma for six days and has been released from the hospital with an uncertain future because the doctors have said that she may never fully recover from her injuries. Officer Rodriguez would be entitled to an accidental disability pension of \$22,000 per year, with a reduction in an amount equaling 50% of any primary social security benefits that she may receive. If Officer Rodriguez was eligible to receive Tier II accidental disability benefits, she would receive approximately \$31,500 per year without any reduction for social security benefits.

This bill would provide parity in correcting these injustices.

Moving on to A7108 and A7185. These two bills respectively would restore the $\frac{3}{4}$ disability benefits for NYC Correction and Sanitation members. Also much like NYC Police officers and Firefighters these men and women also result in on the job injuries from the hazardous work that they do.

Take Correction officers in the City of New York. The type of accidental injuries sustained by correction members is well documented. Recent incidents include a correction officer attacked by an inmate and hit multiple times in the face causing multiple and severe fractures to his right top jaw, eye/orbit and cheek bone. These injuries required extensive surgeries (open reduction internal fixation) along with decompression of the right orbital nerve. The officer has suffered significant pain, post-traumatic stress disorder, anxiety and depression. In another incident, without provocation, an inmate punched a female officer in the face, causing her to go down and black out. The inmate continued to punch the officer in the face head, neck and back. Chemical

agents were used by other officers to quell the situation; the assaulted officer was sent to the Emergency Room via ambulance. Her eye was swollen shut with chemical agents inside and never able to be washed out, resulting in permanent eye damage, vision damage Other crippling injuries to her neck, back, and shoulders were sustained resulting in permanent disability.

Ultimately if these officers were to receive an accidental disability pension due to their injuries, the amount of the pension would be approximately 44% less than a similarly situated member of Tier IV and, further reduced by an offset equaling 50% of any primary social security benefits that he may receive. This is wrong.

Further it along with Sanitation members. The type of accidental injuries sustained by sanitation members is well illustrated by the story of Danny Interlandi. Danny joined the NYC Department of Sanitation on July 30, 2012. On June 1, 2013, Danny was struck by a Budget rental box truck while he was loading garbage. Danny was thrown into the garbage truck's hopper head first, with his upper body in the truck and his lower body hanging out. The FDNY EMT found him trapped between the truck that hit him and the garbage truck. Danny's left leg was crushed and partially amputated, his right arm deformed and swollen. Fortunately, with the great work of the responding EMT team and the surgeons and staff at Bellevue Hospital, Danny's life was saved. He has undergone many surgeries, skin grafts and rehabilitation programs and is still working towards recovery. If Danny ultimately were to receive an accidental disability pension due to his injuries, the amount of the pension would be approximately 44% less than a similarly situated member of Tier VI and, further reduced by an offset equaling 50% of any primary social security

benefits that he may receive. Again, this is wrong. This bill would reverse the inequities inherent in Tier III illustrated by Danny's story.

With the above referenced, recent stories and examples I think we can all agree on the need for a substantive change that doesn't just look at the chance for the City to save a dollar on the backs of the people our communities rely on the most, our first responders.

Being we are on the subject of saving a dollar. I'd like to make comment on Mayor DeBlasio's alternative proposal. The mayor's proposal without a doubt lacks integrity. His plan is unrealistic and is crafted to only save the city money on the out years of a members disability benefit.

Under his proposal any member who becomes disabled on the job but does not qualify for Social Security disability (Social Security disability criteria requires a person to be unable to perform ANY job) and has at least 6 years on the job will receive less in disability than current law. This is especially evident in the accompanying Actuary's fiscal note affecting the City's cost for the Fire pension Fund. Under the 0% social security benefit scenario the City will be paying less in pension contributions under the mayor's alternative when compared to current law.

In fact under the two scenarios (0% and 25% of members qualify for social security benefits) presented in the Actuary's fiscal note the overall cost gets lower each year suggesting that over time this alternative legislation will cost less than the inferior benefits provided under the current law. In fact, these lower benefits are the result of the Mayor's alternative bill reducing the

COLA benefit provided in current law from a full CPI COLA (max 3%) on total benefit to ½ of CPI COLA (1% minimum to 3% maximum) on only the first \$18,000.

Furthermore, for those members with less than 6 years of service who are granted an ordinary disability (not injured as a result of on the job) will have a higher Final Average Salary (FAS) when computing their benefit than those members who qualify for an accident disability who also have 6 years or less in service. This appears to be a drafting error with ordinary FAS including a component for overtime while accident FAS does not.

As you can see this plan does nothing for injured workers but skimp on the disability benefits that they deserve and have earned.

It should not go undiscussed that the fact of offering inferior benefits will most defiantly affect the retention of new employees. For one it will become more challenging for these agencies to find employees to work in these jobs by offering lessor benefits than what is afforded to those outside the state of New York. And on the flip side of the coin, those who are currently working in these capacities if injured will stay on the job longer in limited or restricted medical capacities, thus costing the city and state more money. This is also something that we must consider while looking at restoring these benefits.

Most recently, actually this past Wednesday, I have introduced a state-wide bill, A.7816 to correct these injustices if this Council does not issue a home rule to correct them themselves. This bill would take any member that is in Tier III and retroactively place them back into Tier II.

This bill would not only restore the ¾ disability benefit that their counterparts' statewide have but it would also restore all of the presumptions that these men and women lost when they were forced into Tier III with these inferior benefits. As you can probably ascertain this bill would be substantially more expensive than the other ones that I have sent down for home rule. I want to make it clear; the introduction of this new legislation is not to bankrupt the city but to put in place a fall back plan to restore the much needed and deserved benefits of our first responders.

Right now you have an opportunity to correct this voluntarily before it becomes a mandate. The ball is in your court. So, in closing, I ask you, the city council to take into consideration my bills, A6046, A7108 and A7185 for issuance of a home rule. It is time to do what's right by the people we depend on most.



“Patrolling the Toughest Precincts in New York”

COBA President Norman Seabrook’s Testimony Regarding $\frac{3}{4}$ Disability Legislation

New York City Council

May 29, 2015

Good Morning Madame Speaker, members of the City Council. My name is Norman Seabrook, President of the Correction Officers' Benevolent Association and on behalf of the nearly 9000 law enforcement Officers who patrol the toughest precincts in New York, the City's Jails; I come before you today to ask that you support the $\frac{3}{4}$ Disability Bill # A7108/S4825.

It comes as no surprise to many in this room that violence against Correction Officers at Rikers Island, borough facilities of the D- O - C and the Hospital Prison Wards has crested to an all-time high in the midst of a historic effort to reform practices in the D- O - C.

The Board of Correction reports that "the rising level of use of force over the past eight years is a crisis." Indeed, in the first quarter of this year the statistics are staggering:

In the first quarter of this year - From January through March -- almost 1200 uses of force were reported. If this continues, the year will end with 4800 uses of force - nearly 800 more than in 2014!

These are physical confrontations that often involve career-ending injuries -- sometimes injury that gets worse over the course of their career until work is no longer an option.

Of these, the D-O-C reports that 235 were "generic" UOF. Of the remaining 1000 confrontations directly caused by inmates there were varying degrees of physical involvement by Correction Officers.

2% or a total of 21 incidents involved slashing, stabbings or other serious criminal conduct.

27 incidents- nearly 3% - involved brazen direct assaults by inmates on Correction Officers.

Incidents where Correction Officers had to break up fights between inmates numbered 225 – nearly a quarter of all inmate caused uses of force. Almost half of these incidents involved multiple inmates – up to entire housing units, meaning a dozen or more aggressors. These resulted in hundreds of work days missed by these officers due to injuries sustained.

Finally – 117 incidents – or 12% of incidents in this first quarter of 2015 – were due to aggression by inmates or the need to initiate an extraction - - all incidents precipitated by unruly inmate conduct.

By the way – the number of so-called felony assaults reported by the D-O-C to the NYPD's COMPSTAT system come nowhere close to these internal figures – and this must be pointed out lest we all do a disservice to the women and men being sent to the hospital day in and out in the Corrections Department. Wholly unreported in the Department or NYPD 1st quarter figures are the 114 felonious assaults involving the throwing of feces or bodily fluids on Correction Officers.

As for serious injuries to my members causing them to go to the hospital – the number has kept pace with the 16% jump of Uses of Force.

Compared with the last quarter of 2014, this first quarter of 2015 has seen a jump from 73 serious injuries to 86 – a leap of 16% within six months!

Add issues of understaffing and unconscionably high rates of forced overtime to the increased rate of Security Risk Group members filling the jails, and violent mentally ill individuals - - it makes a recipe for work-related disability.

Let me paint a picture for all of you on some of these work-caused disabilities:

On 05-31-2012 at Elmhurst Hospital Prison Ward D11 Day Room Area a Correction Officer gave an inmate an order to get off the phone, the inmate threw phone at the Officer striking her in the face and then physically attacked the Officer by swinging her arms and hands wildly and throwing punches. The injuries suffered by the Officer include a large cervical central protrusion indenting the ventral spinal cord causing significant chronic pain. Right knee meniscus tear and a left knee cap injury, requiring surgery on both knees, she still suffers from chronic knee pain and instability. Right Shoulder derangement limiting mobility and pain.

At OBCC Sally Port Visit Control on 10-21-2012 a Correction Officer, while supervising the inmates, was jumped by an inmate and then assaulted by several inmates causing significant head trauma and injury to his neck jaw, lower back, left elbow, wrist and hand and bilateral knees (including an ACL tear). He was taken to the emergency room and was hospitalized for 6 days for his injuries. He required multiple surgeries including neck, back, and bilateral knees, as well as, suffered damage to his left eye requiring procedures and lasting effects of head trauma.

On 09-06-2013 at AMKC Harts Island Mental Health Clinic B post an inmate without provocation, punched a female officer in the face, causing her to go down and black out. The inmate continued to punch the officer in the face head, neck and back. Other officers on the scene used chemical agents to subdue the inmate and the officer was sent to the ER via ambulance. Her eye was swollen shut with chemical agent inside that was never able to be washed out. This assault resulted in blurred vision and loss of peripheral vision, other injuries included Disc bulge and left foramina herniation and narrowing with straightening of lumbar spine, Moderate Traumatic Brain Injury causing chronic headaches, dizziness and other Cervical injuries

Nearly two decades ago the Legislature enacted a $\frac{3}{4}$ disability bill. In so doing, the State legislature provided the following justification:

“Correction members are subjected to great risk of sustaining permanent disabling injuries. “ This is truer today than ever, however at a time when the D- O – C is trying to attract a new breed of Correction Officer candidate, an identical disabling event occurring to two officers – one hired since 2012 and one prior – would be treated differently. The recent hire would only receive $\frac{1}{2}$ of their salary – TAXED- and minus 50% social security and ALL of any workers comp benefits. While the one employed prior to 2012 would obtain $\frac{3}{4}$ of their final salary TAX FREE, as the

legislature intended. Since all correction officers face the same dangerous environment and stress from forced overtime, it makes no sense that they should be treated disparately based on their date of hire.

This is especially true if this Department wants to attract the best and brightest to a career that is fraught with danger.

This legislation would address the senseless disparity by granting all New York City Correction Officers the same protections.

I thank you all for allowing me the opportunity to speak this morning and will answer any questions the members may have.

*Patrolmen's
Benevolent
Association*
Of The City Of New York, Incorporated



OFFICE OF THE PRESIDENT

NEW YORK CITY COUNCIL COMMITTEE ON STATE AND FEDERAL LEGISLATION
**Hearing on Disability Pension Reform for Members of New York City Uniformed Services and
Related New York State Legislature Home Rule Requests**

May 29, 2015, 10:00am
Committee Room - City Hall

TESTIMONY OF PATRICK J. LYNCH,
PRESIDENT OF THE PATROLMEN'S BENEVOLENT ASSOCIATION
OF THE CITY OF NEW YORK

Good morning, and thank you for holding this hearing on this important and very urgent matter.

As you know, we are here today because our city is failing to meet one of its most basic moral obligations. Every single day, New York City police officers put their own health and safety on the line in order to protect their fellow New Yorkers. Every single day, they go to work not knowing whether they might end their tour in the back of an ambulance or in a hospital bed, rather than home safely with their families. They understand that such risks are part of the job, and they accept them on behalf of this city and each and every one of its residents.

In recognition of these risks, our city has for the better part of a century provided its police officers with the protection of an adequate disability pension benefit that would allow them to provide for themselves and their families if they are permanently disabled in the line of duty.

But the nearly 9,000 police officers hired since July 2009 have been forced to face these risks without adequate disability protection. Their disability benefits are not only lower than those provided to their more senior colleagues — they are also lower than the disability benefits provided to all New York City EMS employees, and to every other police officer in New York State. For some newly hired police officers, the City-funded portion of these benefit may amount to as little as \$27 a day.

As you may be aware, this unjust situation is not the result of any reasoned decision by lawmakers either in Albany or here in City Hall. Instead, it is the byproduct of former Governor David Paterson's ill-considered and unilateral decision not to sign legislation extending the Tier 2 pension plan in 2009. By default, New York City police officers hired since that date have been placed in pension Tier 3, a plan that had never applied to police officers before. Even Governor Paterson himself has acknowledged that the reduction in disability benefits was an unintended consequence of his veto, and no



lawmaker at any level of government has attempted to defend the resulting inequality between police officers who work side-by-side, facing the exact same dangers, regardless of when they were hired.

Instead, an increasing number of leaders at both the City and state level have joined us in calling for equal disability benefits for all police officers. We especially want to thank you, the 40 members of the Council who have signed onto the resolution in support of this change.

But despite this strong support, the moral obligation has not yet been met. There is currently a bill pending at the state level that would provide police officers hired after July 2009 under Tier 3 with the same line-of-duty disability protections as those under Tier 2. The Legislature has requested the Council's home rule support for this bill before bringing it to the floor for a vote. In order to correct this injustice before the Legislature adjourns in June, it is imperative that this Council introduces and passes the home rule resolution without any further delay.

The equal level of disability protection provided under this bill includes a disability pension of 75% of final average salary, not reduced by any Social Security disability benefits. Despite what some editorial writers would have you believe, this benefit is not a "pension sweetener." It has been a standard protection for all New York City police officers for at least 75 years, going back to a unanimous decision of the City Council in 1940. Regardless of the cost, restoring this benefit completely — without any other strings or political bargaining chips attached — is the only just and acceptable way for the City to honor its obligation.

There is no other adequate solution, and the solution cannot wait. As far as New York City police officers are concerned, the inequality in disability benefits is not a hypothetical problem. It is not a problem that will affect police officers at some distant point in the future. The injustice is real, and it is affecting police officers right this very moment.

In the past 18 months, at least three police officers who are Tier 3 members have sustained serious injuries in the line of duty. On February 26, 2014, P.O. James Li was shot in both legs as he attempted to apprehend a gun-toting fare-beater in Brooklyn. On April 6, 2014, P.O. Rosa Rodriguez suffered lung damage while responding to a Coney Island arson fire that claimed the life her partner, P.O. Dennis Guerra. On October 23 of last year, P.O. Kenneth Healey sustained a serious head injury when he and three other officers were set upon by a hatchet-wielding terrorist in Queens.

All three of these police officers are on the road to recovery, and each of them hopes to return to full duty. They hope to do so because they are passionate about their jobs. They are dedicated to protecting the people of this city. But they also recognize that, if their injuries force them to retire from the job they love, they will not be able to support themselves or their families on the disability pension benefits that the City provides.

It is not only a matter of basic fairness to protect them and their families against the financial risks that they have incurred on our behalf; it is also a matter of public safety. I ask you to put yourself in their position, or in the position of their fellow police officers who are still out on the street, performing their duties even though they are unsure how they will feed and clothe their kids if they are hurt on the job. If you were in that position, would you hesitate to put yourself in harm's way?

This is not a question that any police officer wants to ask him or herself. It is not a question that we want our police officers to be asking. Instead, we should all be asking: how is it that government cannot now satisfy this most basic obligation? Is it a measure of how far we have fallen?

In the context of a \$78 billion budget, is it reasonable to claim that we can't afford to correct this injustice, to claim that we can do no better than "second-class" treatment for the men and women who risk their lives on our behalf? Or is it that we are simply unwilling to do what is right?

I am here to ask this Council to do what is right, what is fair, and what is just. I therefore once again urge the Council to introduce and pass a home rule resolution in support of Assembly bill A.6046 and Senate bill S.4269.

Thank you once again for holding this important hearing and for considering my testimony.



OFFICE OF LABOR RELATIONS

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Testimony of Commissioner Robert Linn Before the New York City Council Committee on State and Federal Legislation Regarding Disability Pension Reform for Members of New York City Uniformed Services and Related New York State Legislature Home Rule Requests

Thank you to Speaker Mark-Viverito, Chair Koslowitz, and members of the committee for giving us the opportunity to speak with you today.

When it comes to our uniformed workers, the bottom line is that their safety is paramount. These public servants risk their lives each day to protect our city, and we must ensure that the city is protecting them after a tragic injury.

That is why this administration has proposed a change in the disability benefits for uniformed employees that will meaningfully increase the support these workers receive if they are disabled on the job. I look forward to explaining our proposal here today.

Pensions for NYC uniformed forces are currently some of the most expensive in the country (over twice the national average for police and fire, and more than 1.5 times the average for police and fire in New York State). Over the last several years the State has passed pension reforms to attempt to control the costs of these benefits, ultimately concluding with the passage in 2012 of Governor Cuomo's Tier 6 legislation. This sweeping reform, specifically for City workers, generally requires longer service and higher employee contributions for new hires. The

Tier 6 reform also applied the same benefits to all four City uniformed forces – police, fire, sanitation, and correction. The pension benefits of this tier still provide income replacement for retirees and protection for employees who become disabled, while taking measures to reduce the previously unsustainable cost of pension benefits.

Last year, Governor Cuomo vetoed legislation that would have allowed members of public retirement systems to purchase credit for military service rendered during peace time, writing in his veto message that the bill “would run rough-shod over systemic reforms carefully negotiated with the Legislature to avoid saddling local property taxpayers with additional, unmanageable burdens.” The Governor continued by writing that the bill “explicitly throws [pension] reforms to the wind and seeks to enhance existing pension arrangements by imposing a substantial unfunded mandate on localities.”

That bill would have cost less than current legislation in Albany (S.5596) – making the points stated in the Governor’s veto message even more poignant. The Albany bill would undermine the most significant pension reform in over 30 years and subject the City of New York to unsustainable fiscal implications that would impinge on our ability to deliver vital services to New Yorkers.

However, we do know that under the current law (which has been in effect since 2009 for police and fire), some recently hired employees who become severely disabled could wind up with a very modest City-provided pension benefit.

That is why, to address this issue, the City has proposed a bill (A.7854) to directly address the disability pensions of more recently hired employees and those who are severely disabled, which I am here to testify in support of today. This bill would modify the current law

with respect to disability pensions by offering new employees the choice at hire -- and incumbents the choice at retirement -- of the current Tier 6 disability benefit or a new benefit that changes Tier 6 disability .

The changes will more fully protect uniformed public servants who have more recently joined City service and who are injured on the job, and allow them and their families to receive much needed support. This would change the way disability benefit calculations are made in three significant ways:

1. **The new benefit would be based on the higher of the basic maximum salary or the actual salary of the employee.** This is specifically designed to address the concern that workers with fewer years of service, who are still on the lower portion of the salary progression, are receiving modest disability benefits. For example, a police officer disabled on the second year on the job would now receive a pension benefit based on the basic maximum salary for police officers, instead of on his lower actual salary.
2. **The new benefit would no longer be reduced by the amount of social security benefits that the employee would receive.** Currently, under Tiers 3 and 6, disability benefits are reduced by half of the social security benefits received. Our change is specifically designed to address those employees who are severely injured and therefore would qualify for Social Security Disability Insurance (SSDI). Eliminating the reduction of benefits for received SSDI will increase the disability pension of severely injured employees by thousands of dollars per year, thereby providing greater income support to those who need it most.

3. **The post-retirement cost of living adjustment (COLA) would be returned to the COLA under the old retirement system for uniformed forces**, which is the same COLA enjoyed by the rest of the workforce.

This proposed bill would maintain the tax-free treatment of disability benefits that have existed in all pension tiers. This targeted bill will dramatically increase the support these recently hired City workers receive if they are disabled on the job, especially those who are severely injured, and provide them and their families with the vital support they need. It specifically addresses the concerns that have been raised about the existing structure – providing these additional protections for our uniformed workers, without rolling back critical reforms to our pension system that protect the taxpayer.

In arguing for a change to the existing structure, the UFA has raised the issue of the level of disability benefits received by a newly hired firefighter who is seriously injured. The City's bill fully addresses this situation. Indeed, by using the basic maximum salary and eliminating the social security offset, this bill is intended to increase the disability benefit for a "seriously injured newly hired employee." Under this bill a firefighter injured in their first year on the job, will receive a higher benefit than they would have under Tier 2 and far more than under existing law (Tier 6).

Similarly, the PBA has advocated for pension reform by using the example of a recently hired police officer who is seriously injured in a fire. The benefits this officer would receive under our proposed legislation would be approximately equal to those this officer would have received under Tier 2.

The City's proposed bill accomplishes these objectives at a cost of \$47 million through Fiscal Year 2019 -- in comparison with the alternative being offered, which would cost

approximately \$400 million through FY 2019 for all four uniformed agencies (or \$342 million just for police and fire). The dramatic increase in costs by up to \$400 million through FY2019 would undo much of the efforts made by the legislature to control pension costs. In contrast, our proposed reforms accomplish the goal of aiding shorter service workers without rolling back vital reforms to our pension system that protect the taxpayer—reforms that the legislature itself passed and the Governor signed only a few years ago.

I hope the Council will join us in supporting this vital proposal that will protect the brave public servants who put their lives on the line every day to protect us, while also protecting the long-term fiscal health of our city.

Cuomo Sides With NYC Police, Fire Unions On Disability Pay

AP AP New York City Wire

By COLLEEN LONG

May 15, 2015

NEW YORK (AP) - Gov. Andrew Cuomo said Thursday he stands behind police and fire unions in a fight to increase the benefits city uniformed workers will receive if they're seriously injured on the job.

The governor's statement to The Associated Press came a day after the unions panned a proposal offered by Mayor Bill de Blasio.

"We owe the brave men and women of our uniform services in New York City the same assurances afforded to every other first responder in the state," Cuomo said.

Before July 2009, city police officers and firefighters received disability retirement benefits equal to 75 percent of their salaries plus any Social Security benefits. After state law changes, all the city's uniformed workers injured on the job get 50 percent of their pay, further decreased depending on any Social Security benefits.

The change means police officers and firefighters hired after 2009 who are seriously injured on the job won't have enough to live on, said Patrick Lynch, head of the Patrolmen's Benevolent Association, the city's largest police union.

No officer is currently affected by the change, which makes the need to amend the law more important because it's only a matter of time, the unions say.

"This is not a perk or a benefit," Lynch said. "This is a moral obligation for City Hall to take care of the officers who risk their lives and are permanently injured doing their jobs."

On Wednesday, the mayor proposed increasing the payout by removing the Social Security offset and calculating the benefit from a higher salary point. City officials say it would cost the city \$47 million through fiscal year 2019.

But the unions say it isn't enough - they want to return to 75 percent. City officials say that would cost the city \$342 million over the same time frame.

Uniformed Firefighters Association head Steve Cassidy said the mayor's proposal didn't include any input from the unions.

"There was no discussion, no debate, no consult with us ... regarding how this could impact our members," Cassidy said.

The 2009 move was an effort to reduce skyrocketing pension costs statewide. In April 2012, under Cuomo's watch, the lower disability benefit grew to include sanitation workers and correction officers.

Cuomo, who has a history of squashing plans by de Blasio, is now siding with the unions.

"I agree with Pat Lynch that there should be parity for the NYPD should any of those officers be disabled in the line of duty," he told the AP on Thursday. "And it needs to be done one way or another as soon as possible."

De Blasio said his proposal was sound.

"This bill will ensure every uniformed worker - especially those just starting out on the job - is protected by this city after a tragic injury," he said in a statement. "Our brave public servants put their lives on the line each day to protect this city and this bill lets them know: we are there for you too."

Any changes must be approved in Albany.

The governor previously undercut the mayor on a tax meant to pay for his universal pre-kindergarten program and a housing plan at Sunnyside Yards. The two also have fought over charter schools, control over schools and transportation funding.

http://m.apnews.com/ap/db_268748/contentdetail.htm?contentguid=U7LYMS00

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I represent: OLR -

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