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Doctor narrows definition of 9/11-related death in recent ruling

By AMY WESTFELDT

Associated Press Writer

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Police Officer James Godbee began directing traffic just outside the World Trade Center site two days after Sept. 11, 2001, working hundreds of hours before developing a common cough. He died in 2004 of sarcoidosis, a disease that studies have linked to breathing in toxic dust that hung over the towers' ruins for months.

But because he was not at the trade center at the time that the towers collapsed, the city medical examiner has declined to add him to the official Sept. 11 victims' list

With government officials, scientists and courts in a constant debate over what deaths can be linked to the trade center dust, Chief Medical Examiner Charles Hirsch has so far drawn the most narrow definition as he considers requests to reclassify several respiratory deaths as homicides.

"All persons killed at the World Trade Center on Sept. 11, 2001, and others who died later from complications of injury or exposure directly caused by the collapse of the twin towers on that day are homicide victims," Hirsch wrote in a letter made public last week that denied a request to call the 44-year-old Godbee a homicide victim. "Mr. Godbee's manner of death will remain `natural.'"

For Hirsch to consider ruling a death of a person exposed to trade center dust as a homicide, "they had to be there at the time of attack, up to and including when the towers came down and the dust form settled," said spokeswoman Ellen Borakove.

"This has been the standard that was decided in our office. There had to be a cutoff," she said.

Some other medical examiners and experts called the distinction arbitrary. Families and attorneys of ailing or dead workers said it was wrong.

"What happened 9/11 and in the aftermath of 9/11 can by no stretch of the imagination be called natural," attorney Norman Siegel said Sunday at a press conference protesting Hirsch's decision.

Hirsch's standard has been under renewed scrutiny since May, when he ruled that the death of Felicia



Dunn-Jones, an attorney who died of sarcoidosis in 2002 after fleeing the collapsing towers, would be reclassified as a homicide.

After Dunn-Jones became New York City's 2,750th victim, five other families made similar requests of Hirsch. Four have been rejected, including Godbee. The case of Cesar Borja, a police officer who died earlier this year of lung disease, is still being reviewed, although Borja did not arrive to work near ground zero until December 2001.

Medical examiners around the country said there is no precedent for setting a specific time limit to make a ruling on deaths that result from a crime such as the terror attacks.

Joseph Prahlow, president of the National Association of Medical Examiners, said doctors could disagree on, for instance, whether to rule that a contractor who dies while demolishing the ruins of an arson fire a day later a homicide.

In the case of an event like a nuclear attack, he wrote in an e-mail message, "it is reasonable to include injuries/illnesses/deaths related to the fallout as being directly caused by the attack."

But "defining the exact time that the direct connection is severed can be difficult to establish," he wrote.

Michael Baden, chief forensic pathologist for the New York State Police, said that Hirsch's distinction was artificial.

"It's very arbitrary and unprecedented that someone who inhaled the dust a minute before midnight is a homicide and someone who inhaled the dust a minute after midnight is natural," he said. "If somebody dies as a result of an illegal act, then it's murder."

While Hirsch declined to add Godbee to the Sept. 11 victims' list, the officer had already received line of duty benefits from a police pension board. Scientific studies that have found links to respiratory disease and work at ground zero are based on patients who were at the trade center on and after Sept. 11. A federal judge hearing a lawsuit filed by thousands who said they were made sick by ground zero dust has not put those caught in the dust cloud into a separate category.

David Worby, who represents Godbee's estate in the lawsuit, said most of his clients were exposed to the toxic dust that hung over Manhattan "in the first couple of days" after the attack.

That is the timing that was set years ago by Kenneth Feinberg, who oversaw the Sept. 11 victim compensation fund that distributed over \$1 billion to people who said they became sick at or near ground zero.

Feinberg said ground zero workers who worked at the trade center site within four days of Sept. 11, or residents who were there within 24 hours, were eligible to apply for aid. He cited a congressional statute that said the fund was to help people killed or injured on Sept. 11 or in its immediate aftermath.

"I had to decide, what is immediate aftermath," said Feinberg. "I think the line drawing has to be done with care."

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Associated Press writer Samantha Gross contributed to this story.

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