



FIRE DEPARTMENT

9 METROTECH CENTER

BROOKLYN, N.Y. 11201-3857

NICHOLAS SCOPPETTA
Fire Commissioner



May 26, 2005

Peter L. Gorman
President
Uniformed Fire Officers Association
225 Broadway – Suite 401
New York, New York, 10007

Stephen J. Cassidy
President
Uniformed Firefighters Association
204 East 23rd Street
New York, New York 10010

Dear Mr. Gorman and Mr. Cassidy:

I am writing to you on a topic of great concern to the Department and the people of this city: emergency response times. As you are aware, average citywide response times have increased in each of the last eight months (when compared with the same time period one year earlier), a statistic that is both alarming and dangerous. I am concerned that you have been sending the wrong message to your members with respect to this issue, and in doing so are endangering public safety.

As you know we have revised the Department's regulations concerning emergency response to clarify our obligation to respond safely and as quickly as possible. In recent months, you have advised your members to ignore Department regulations and slow down excessively in responding to incidents. Specifically, Mr. Gorman has repeatedly directed officers to disregard Department rules and regulations. Several examples follow:

- *"We are advising all officers to continue to follow NFPA (National Fire Protection Association) regulations and require your firefighters to make a full stop before proceeding through a red light or stop sign while responding to fires and emergencies." (11/24/04 "854 Pass Along Bulletin. #22 of 2004").*

- “We continue to advise all officers to require your chauffeurs to comply with NFPA guidelines and come to a full stop at all red lights and stop signs before proceeding through an intersection while responding to alarms.” Statement of Peter Gorman, February 10, 2005.
- At a UFOA membership meeting on 11/9/04, Gorman advised his membership that officers should be sure to have engines and ladder trucks come to “full stops at red lights and stop signs before proceeding” and warned against “proceeding against one way traffic.”

It is also clear that such advice is being given, at least in part, to bolster certain aspects of the union’s agenda, including efforts to increase five-firefighter staffing on engines and to prevent firehouse closings. For example:

- In his President’s Message dated May 12, 2005, Steve Cassidy states that the UFA will seek to increase the number of 5-man engines (from the current 60) by citing as evidence to support his argument “increased response times.”
- “The UFA and UFOA have been trying to get the message to all chauffeurs and officers for the past several months. Apparently our message is getting out. Response times are climbing ...” (UFOA President’s Report, membership meeting on 11/9/04).
- “Don’t race to a box – it’s just not worth it.” (UFA 65-2 fax, #48 of 2004, 7/28/04).

All of these irresponsible statements followed the Department’s justifiable disciplinary action taken after a serious accident last July in which a civilian was killed, and after the Department’s reasonable modification of its driving regulations to conform to Title 7, Article 23 of the New York State Vehicle and Traffic Law.

Let me restate the relevant facts surrounding the accident, which we made you aware of shortly after disciplinary charges were filed:

On July 10, 2004, Engine Co. 94 was involved in a major accident while responding to a fire in the Bronx. A civilian was killed in the accident. The Department’s Safety Command conducted a comprehensive investigation and determined that a **surveillance videotape provided irrefutable evidence** that the engine was traveling through an intersection where the light had been red against the fire truck for nine seconds prior to impact. Visibility to determine traffic flow in the opposite directions was extremely limited due to structures at the intersection. The apparatus did not slow down as it approached the intersection, traveling at an estimated speed of 30 mph. The civilian vehicle – approaching a green light – collided with the apparatus and a passenger in the rear suffered fatal injuries. Fortunately, no one else was seriously injured. This was a terrible tragedy for the victim and his family, as well as for the firefighters involved. Clearly, no one wanted this to happen, least of all the firefighters who were trying to get

to a working fire. However, with videotape evidence that showed reckless driving that caused an unnecessary death, it was incumbent upon the Department to discipline the chauffeur and officer for violating Department regulations.

In reviewing those regulations, it came to my attention that going through a stop sign or red light – while permitted for emergency responders under the state VTL– was prohibited by a Department regulation. As a practical matter, however, that regulation was routinely ignored by our chauffeurs and their supervisors. For the sake of providing clarity to those who drive and those who supervise them, and to better protect their rights as emergency first responders in accordance with state law, I ordered this regulation be changed to conform to the state VTL. Section 1104. That section permits emergency response vehicles to go through red lights or stop signs but only after slowing down as may be necessary for safe operation. It does not require responding emergency vehicles to *stop* at red lights or stop signs.

The fact that charges were brought against the chauffeur and officer involved in such a serious accident brought criticism from you. While you have the right – indeed, the obligation – to protect and defend your members, in this case an innocent person died as a result of an accident that could have been avoided. Instead of embracing the changes we have made to provide better clarity and protections for chauffeurs and officers, you have – as demonstrated by the material quoted above – seized upon this as an opportunity to satisfy some other agenda. Contrary to current Department regulations, you continue to advise your members to stop at red lights, regardless of whether it is necessary or sensible to do so. This has resulted in an increase in response times well beyond those caused by our successful effort to reduce accidents. Your actions may well be endangering the public you are sworn to serve.

In addition, you have used scare tactics with your members, falsely claiming that the city will leave firefighters without legal representation in the event they are involved in an accident. Mr. Cassidy has stated:

- *“A chauffeur was recently served charges as a result of an accident that occurred while responding to a 10-75. This is a disgrace and reflects that the Dept is willing to punish firefighters and expose them to personal liability for its own political purposes.”* UFA 65-2 communication #78, Oct. 14, 2004.

This is utter nonsense. There have been more than 1,700 apparatus accidents in the last three years and not once has the Corporation Counsel declined to represent any firefighter or officer who was sued as a result of an accident. As you should know, the Corporation Counsel **is representing the Chauffeur involved in the fatal accident described above.**

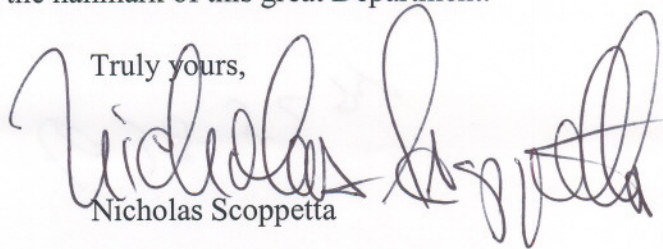
You have also repeatedly told firefighters that they will be disciplined if they get into an accident. Again, in 1,700 cases we have disciplined only one driver, and in that case we obtained conclusive videotape evidence of negligence on the part of the driver and the officer supervising him.

Finally, disregarding all the facts, you have erroneously sought to explain to the media that increased response times are the result of the closing of six engine companies two years ago. That is completely false. As we had predicted, the impact of the six closures on citywide average response times has been a fraction of one second. In the last two years, there has been a 15-second increase in the citywide average; the portion of that attributable to the closings is .32 seconds or *less than one-third of one second.*

Firefighters and fire officers take an oath to protect and serve the people of this city. I believe they do this remarkably well and with a commitment and dedication that is unmatched by any public servant. But I believe that your concerted effort to drive up response times by appealing to implausible fears of retaliation, to serve your own agenda, jeopardizes public safety and runs counter to the tradition of selfless service and dedication to the people of this City. This is the very worst kind of union action imaginable. (Fortunately, a substantial number of our members are ignoring your dangerous advice – more than a quarter of our engine companies have equal or decreased response times to structural fires, while our attempts to reduce accidents has had positive results so far).

I therefore insist that you urge all of your members to do their jobs with the pride in public service that has always been the hallmark of this great Department.

Truly yours,

A handwritten signature in black ink, appearing to read "Nicholas Scoppetta", written in a cursive style. The signature is positioned to the right of the typed name "Nicholas Scoppetta".

Nicholas Scoppetta