



## FIRE DEPARTMENT

9 METROTECH CENTER

BROOKLYN, N.Y. 11201-3857

NICHOLAS SCOPPETTA  
*Fire Commissioner*

Room 8W-6

December 30, 2004

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

Mr. Stephen J. Cassidy  
President  
Uniformed Firefighters Association  
204 East 23<sup>rd</sup> Street  
New York, New York 10010

**Re: Revision of Fire Vehicle Response Policy**

Dear Messrs. Gorman and Cassidy:

This letter is in response to Mr. Gorman's November 15, 2004 letter to me and to Mr. Cassidy's November 4, 2004 letter to Chief of Operations Salvatore Cassano, regarding the above-referenced matter. This letter is also a follow up to the November 10, 2004 meeting in which we discussed the Department's then proposed amendment to its fire vehicle response policy.

**New Response Policy**

With respect to whether the new response policy is safe, the standard set forth in Section 1104 of the N.Y. Vehicle and Traffic Law, which is being adopted by the Fire Department, properly balances the need to ensure the safety of members and other civilian drivers with the Department's mission of emergency response. The new response standard reflects the language contained in Section 1104, which permits drivers to "[p]roceed past a steady red signal, a flashing red signal or a stop sign, but only after slowing down as may be necessary for safe operations." Section 1104 requires drivers to slow down as *may be necessary for safe vehicle operations*. This recognizes and codifies the actual, longstanding practice in the FDNY.



Furthermore, drivers are not relieved from the "duty to drive with due regard for the safety of all persons, nor shall [Section 1104] protect the driver from the consequences of his reckless disregard for the safety of others." This standard reflects the law in this State, and has been in effect for a number of years.

With respect to the "reckless disregard" language contained in the new response policy, I find no compelling need to amend this language. The "reckless disregard" language is part of the N.Y. Vehicle and Traffic Law and represents a standard of conduct with which members must comply.

### **NFPA Standard**

With respect to the suggestion that the Fire Department is required to comply with the National Fire Protection Association (NFPA) vehicle response policy, although NFPA standards can at times provide guidance, they have no force of law in any jurisdiction unless they are specifically enacted by such jurisdiction. As you are aware, in the past the Fire Department has adopted, rejected or modified various NFPA standards. In the Fire Department's view, members are better served by the standard set forth in Section 1104 of the N.Y. Vehicle and Traffic Law.

### **Impact on Vehicle Accidents**

With respect to the argument that the number of accidents will increase under the new response policy, I am not prepared to conclude that a change to the vehicle response policy will automatically increase the number of intersection accidents. During calendar year 2003 alone, when the "full stop" requirement was in effect, Fire vehicles were involved in 209 intersection accidents. Of course, the Fire Department will closely monitor the number of intersection accidents involving fire vehicles under the new regulations for any significant changes.

### **The Responsibility of Officers**

There is not a need to clarify the role of officers because the Fire Department's rules and regulations already clearly state that "[o]fficers are responsible for assuring chauffeur compliance when the apparatus is approaching and traveling through intersections." Safety Bulletin 6, Section 3.3.

### **Member Indemnification**

As you may know, under the N.Y. General Municipal Law, the City of New York is required to indemnify employees named as defendants in litigation. In general, the indemnification will apply to actions, which are within the scope of the member's employment, in the discharge of the member's duties, and not in violation of an agency's regulations. However, the City will not indemnify employees who have been found to be engaged in intentional wrongdoing or reckless conduct. The indemnification



determination is made by the Law Department, and not by this agency, generally on a case-by-case basis. Once the Law Department has made an indemnification determination, it will inform a member in writing. The City's indemnification policy, set forth in the General Municipal Law, has been in effect for a relatively long time. Therefore, the Fire Department cannot represent that "chauffeurs and officers . . . will be fully indemnified by the City of New York against any and all claims . . . ." However, as you are aware, as long as Firefighters and Fire Officers comply with the Fire Department's regulations, they are typically indemnified.

### **Driver Training**

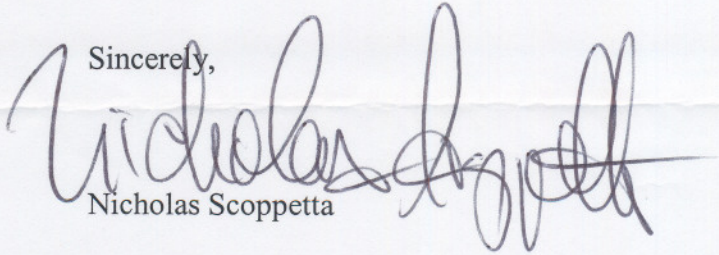
As you are aware, the training of members continues to be a priority of the Fire Department. Indeed, the Fire Department has developed a refresher-training program for vehicle chauffeurs to enhance safety in the area of vehicle response. Commencing in the middle of January, the Fire Department will arrange to have chauffeurs participate in a ten-hour training session at the Fire Academy. The refresher training will address safe vehicle operations, including intersection accidents. The Fire Department will have participants utilize a driving simulator that closely reflects the actual driving conditions that drivers face.

### **Cameras In Vehicles**

Finally, as you are aware, the Fire Department is exploring available camera technology for emergency response vehicles. The available technology can be used to record traffic conditions just prior to an intersection accident. We are confident that once this technology is adopted, it will show that members are, in the vast majority of cases, operating vehicles in a safe manner.

I trust the foregoing addresses your concerns regarding the change to the vehicle response policy.

Sincerely,

  
Nicholas Scoppetta