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## Editor's Column "Razzle Dazzle"

### Razzle Dazzle

## The Smoke After the Fire

By **RICHARD STEIER**

Nearly four weeks after the Deutsche Bank building blaze in which two Firefighters were killed, the focus remains on what the Fire Department did wrong and who were the culprits.



Yet the mere fact that city officials have publicly chastised three fire officers by relieving them of their commands for not ensuring that regular fire inspections were conducted at 130 Liberty St. strongly suggests that they are not the primary targets of the investigations being conducted by the State Attorney General and the Manhattan District Attorney. Law-enforcement officials tend to discourage such actions while probes are going on out of concern that they could either make their targets reluctant to speak or give them a basis for claiming their rights to a fair trial were compromised.

And even if the three officers - Capt. Peter Bosco, Battalion Chief John McDonald and Deputy Chief Richard Fuerch - turn out to have willfully neglected their responsibilities, they would be guilty of violating FDNY regulations, not the city's Administrative Code. In other words, there seems no basis for bringing criminal charges against them.

### So Why Their Heads on Block?

Yet theirs are the only heads on the block in the public square to this point. Uniformed Firefighters Association President Steve Cassidy last week suggested this was part of a deliberate effort by FDNY brass, particularly Commissioner Nick Scoppetta and Chief of Department Sal Cassano, to divert attention from their own failures.

A spokesman for the Fire Commissioner bristled at Mr. Cassidy's assertions, which included the claim that an internal probe was only dealing with the day of the fire rather than FDNY actions regarding the Deutsche Bank building prior to that. Deputy Fire Commissioner Frank Gribbon said that while the department's Safety Command had been ordered to investigate the fire itself, "What happened in the days before that is being investigated by the Fire Department. The Commissioner said we'll follow this wherever it leads. I don't know what could be more clear or concise about the investigation and the path it's taking."

Chief Fuerch has essentially been accused of ignoring a memo from then-Battalion Chief William Siegel in March 2005 about the need to develop a special plan for FDNY responses to 130 Liberty St. Mr. Cassidy, echoing a common opinion that Mr. Fuerch was a conscientious officer who, because of the emotional impact 9/11 had on him would have been diligent about ensuring firefighter safety in what was known to be a contaminated building near the World Trade Center site, expressed doubt that he would have blown off the memo.

At that time, Mr. Siegel was subordinate in rank to Chief Fuerch, but he has since been promoted twice and as a Deputy Assistant Chief is in charge of the FDNY's Special Operations Command. The Uniformed Fire Officers Association, which represents Mr. Fuerch and the other two officers who were relieved of their duties (as well as Mr. Siegel), has joined Mr. Cassidy in questioning whether Mr. Siegel never spoke with his current superiors about his concerns.

The UFA leader pointed out that on April 6, 2005 - 15 days after Mr. Siegel's memo was written - the department held a "familiarization drill" at the Deutsche Bank building to walk firefighters and



The Chief-Leader/Pat Arnow

**PUTTING ONUS IN WRONG PLACE:  
 Glenn Corbett, an Associate  
 Professor of Fire Science at John Jay  
 College, says he believes three fire  
 officers who were stripped of their  
 commands following the Deutsche  
 Bank fire were wrongly scapegoated,  
 and that the FDNY should be  
 updating its Fire Code to deal with  
 'hazardous materials and other giant  
 chunks that are missing compared to  
 what other cities have.'**

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commanders through the various hazards there. (FDNY officials have noted that during a search for remains earlier this year, some Chiefs were inside the building and should have been aware of any unsafe conditions).

### **Big Commitment of Resources**

But Mr. Cassidy speculated that the scope of Mr. Siegel's proposal might have been deemed prohibitive by top FDNY officials because it could have taken as many as five fire units out of regular service for hours in order to respond to a medical emergency at the Deutsche Bank building.

In such situations, the Siegel memo stated, "a Battalion Chief, the Haz/Mat Battalion, a [Certified First Responder-Defibrillator] Engine, Squad 18 and a Haz-Tech EMS unit should respond to the loading dock area. Members and victims operating outside of the clean area will require decontamination before leaving the building."

"That would have put them out of service for hours at a time," Mr. Cassidy said in an interview following his Sept. 5 press conference, citing a decontamination process that typically takes more than an hour for each individual involved.

The UFA leader, who had clashed with top FDNY officials over declines in the speed of responses during the same period that Mr. Siegel's memo was issued, believes that aspect of the proposal is a more plausible explanation for why the plan wasn't implemented than the claim that the three officers willfully ignored recommendations aimed at safeguarding those under their command.

"I don't think," Mr. Cassidy said, "that the Battalion and the Division woke up one morning and said, 'We both had the same dream - let's not go into that building.'"

Mr. Gribbon said he wasn't going to comment on what amounted to speculation at a time when the three probes are still proceeding.

### **'Buildings' Escapes Heat**

The warfare within the Fire Department, however, has turned the conversation away from the early targets of public ire: the contractor, Bovis Lend Lease and its since-dismissed subcontractor, the John Galt Corporation. It has also had the effect of giving a free pass to the Buildings Department, even though, according to several officials, it bears a greater responsibility than the Fire Department for ensuring that the deconstruction of the Deutsche Bank building was conducted safely and without posing fire hazards.

Chief Siegel's memo from 30 months ago noted that because the fire alarm system at 130 Liberty St. was out of service, there was a "24 hour a day fire watch," meaning that individuals hired by the contractor were supposed to be walking through the building periodically to check for fire hazards.

Glenn Corbett, an Associate Professor of Fire Science at John Jay College who has been active in an attempt to bring greater fire safety to all high-rises in the city, said that on more than one occasion in the past he had mentioned to his co-chair of the Skyscraper Campaign, Sally Regenhard, "This building is an incredible fire hazard."

He said last week that he was astonished to learn of the routine violations by workers employed by the subcontractor - including the constant smoking that is now believed to have been the cause of the fire - because of the obstacles that were thrown up when he and Ms. Regenhard had attempted to have the building checked for human remains of the casualties of 9/11.

### **'Insane' to Use Plywood**

Thirteen months ago, Mr. Corbett said, after being put through months of "enormous hoops and hurdles, including extensive medical checks," they were permitted to have an independent forensic anthropologist enter the building, leading to the eventual discovery of more remains.

Because of the level of toxicity in the building, Mr. Corbett said, it was "absolutely insane" to use plastic and plywood during the asbestos-abatement work, even though that is fairly common in other buildings where such work is done.

"Why weren't they using a lot more sheetrock or gypsum board?" he asked. "They did this on the cheap. The Lower Manhattan Development Corporation bears the ultimate responsibility, then Bovis and Galt. But this was not a building that the upper management of the Fire Department should have treated like just another building. The only logical people who should have been in this building [from the FDNY] were members of the Special Operations Command, who have Haz-Mat training, either as a special detail or on overtime. This building was so unique, and so obviously a problem, that it had to go to the upper echelons of the department."

Mr. Corbett also wondered why the U.S. Environmental Protection Agency "wouldn't have been concerned about the possibility of a fire in a building under deconstruction."

### **Organized-Crime Link**

The LMDC has been criticized for permitting Bovis to retain a subcontractor which had connections to individuals linked to organized crime. One former union official with experience in the construction business said that while it was true that Harold Greenberg had ties to the Gambino Crime Family, he was sufficiently knowledgeable about the deconstruction work involved that Bovis may have figured, "Give it to him, it'll be down in six months."

But this official, who spoke conditioned on anonymity, added that even in a building under deconstruction where services were being cut, it would be standard practice to keep the standpipe and sprinkler system in operation for use on the floors below where the work was being done. Instead, the sprinkler system, which may have been damaged on 9/11, had been deactivated, as Chief Siegel's memo noted, and the standpipe had been cut at some point prior to the fire, making it impossible to get water on the fire from the floors immediately below.

#### **'Liars Cut Corners'**

The former union official questioned the grounds under which Bovis and Galt asked for - and got - an additional \$40 million for the deconstruction, saying that there was no reason they wouldn't have known from the outset how much work would be involved. But, referring to published reports that false information had been supplied to the city's Vendex system regarding the contractors, he added, "If your supervision is from somebody who lied to Vendex, you know they're going to cut corners."

Another person with extensive knowledge of the Building Code, who also spoke on condition that he not be identified by name, said the brunt of the blame within the Bloomberg administration should rest with the Buildings Department. He pointed out that even the fire-protection provisions for construction are covered in the Building Code rather than its Fire Department counterpart.

"These days they're throwing around stop-work orders like confetti," he said of Buildings Department officials. "But on this building, they seem to have deferred to 'Lower Manhattan.'"

Nearly as troubling as what happened at 130 Liberty St., he said, is that this might mean Buildings has not been conducting regular inspections at Fiterman Hall, a Borough of Manhattan Community College building which, while smaller than the Deutsche Bank building has some of the same issues. (Ironically, he noted, a smaller Deutsche Bank property to its south at 4 Albany St. had been "deconstructed quickly and neatly. The contrast was remarkable.")

#### **'Not Doing Their Job'**

"Buildings is now run by the lawyers and administrators more than the architects and engineers," he said. "It's gotten very bloated, but not at the practical level, so they're not doing their job."

He continued, "I think the high echelons in both [city] departments vacated their responsibility." It was hard to believe, he said, that the decision not to conduct fire inspections would have been made by Mr. Bosco, the Captain of Engine Co. 10, which is right across the street from the Deutsche Bank building. "I don't think they would be taking it upon themselves to say, 'Screw it, I'm not going in there.' They would be the first-responders if there was a fire; they're the ones who are going in there."

It's possible that a combination of sloth and the resistance among many firefighters to doing building inspection work led to the monitoring of the Deutsche Bank building falling through the cracks. But firefighters who advance up the ranks tend to be people who believe in process and the chain of command, and so it's hard to believe that three officers would have neglected their responsibilities without first asking for direction from higher up.

#### **The Profit Motive**

It seems far more plausible that those with an interest in getting the building down quickly - either because that's what they were paid to do or because they stood to profit from the building that would go up in its place - would have been less than scrupulous about how it was accomplished.

And so even Mr. Cassidy, who last week was calling for the heads of the Fire Department to be subpoenaed to testify by the Manhattan DA's Office, seemed to understand that the biggest culprits - those most likely to face criminal charges - will be found outside the agency which has been under the high-beams of the media for the past four weeks.