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Michael T. Burns
Executive Director
Metropolitan Transit Agency
875 Stevenson St., Room 260
San Francisco, CA 94103

Subject: Unacceptable behavior by Fare Inspectors in attempting to enforce nonexistent ban on photography in Muni Stations.

Mr. Burns:

At approximately 5:15 pm on February 5th 2005, I was taking photographs on the west end of the railway platform at Montgomery Station in San Francisco. I was approached by two Municipal Railway Fare Inspectors bearing badges #8 and #29. #8 told me that taking photographs underground was not allowed. I asked what law she was referring to. She said, "Since 9/11, photographs underground in Muni Stations are not allowed." I repeated my question, "Tell me what law you are referring to and I'll stop." # 8 offered the same answer. #29 then stated, "If you take another photograph I will cite you." I asked them both "Under what law -- Federal, State, Municipal Code or otherwise -- would I be cited?" #8 informed me that it was a "Muni Law". I advised them that if I was breaking the law that I would like to be cited. #29 requested my identification, upon which I proffered my California Drivers License. He requested that I follow him upstairs, which I willingly did.

Upstairs at the Transit Station Agent booth the Fare Inspectors called the San Francisco Police Department for assistance in identifying which code I was violating. Two officers arrived some 30 minutes later. These officers spent another 30 minutes researching which code I may have violated. In this effort, the BART Police Department was called and two officers from that agency arrived at Montgomery Station.

None of these six officials, despite their diligent attempts, were successful in finding any code forbidding photography in Municipal Railway Stations. After approximately one hour my identification was returned to me and I was allowed to leave. No citation was issued.

Regrettably, no apology or acknowledgement of wrongdoing was offered by the Police Officers or your Fare Inspectors.

This attempted enforcement of a nonexistent law is the crux of my complaint. With their uniforms and badges (albeit cloth badges), and citation books, Muni Fare Inspectors are authority figures in the Muni system. With authority comes responsibility. The Fare Inspectors have a legal and ethical responsibility to enforce laws and protect the rights of patrons. By attempting to intimidate me they trampled my rights as an American Citizen, as well as my rights as a photojournalist.

I request that your Fare Inspectors be properly trained and that they refrain from intimidating law-abiding customers exercising their legal rights. I request an apology from Muni and from Fare Inspectors #8 and #29. Their attempt to abrogate my rights was an overzealous abuse of authority, no matter how well intentioned. This behavior is unacceptable, and possibly illegal, if so, exposes the MTA to potential legal action. This is an important issue that must be addressed.

Thank you very much for your prompt attention to this matter.

Respectfully,

Steve Malik

CC:

Gavin Newsom -- San Francisco Mayor

Heather Fong -- San Francisco Police Chief

SF Board of Supervisors

American Civil Liberties Union of Northern California

Alicia Wagner Calzada -- Advocacy Committee Chair, National Press Photographers Association

Paul Sakuma -- President, San Francisco Bay Area Press Photographers Association

Editor -- San Francisco Examiner

Editor -- San Francisco Chronicle

Editor -- San Jose Mercury News