



October 4, 2011

SOCIETY OF  
PROFESSIONAL  
JOURNALISTS  
NORTHERN  
CALIFORNIA CHAPTER

BART Board of Directors  
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OFFICERS  
*President*  
**Liz Enochs**  
Senior Editor  
Housing Wire

**By First Class Mail and Email**

Dear Directors:

*Vice President*  
**Diane Keaton**  
Senior Editor, Forestweb, Inc.

The Northern California Chapter of the Society of Professional Journalists Freedom of Information Committee condemns the wrongful treatment of journalists by BART police during the September 8, 2011 protest at Powell Station. The Committee requests acknowledgment of BART police's error, assurances that such actions will never be taken again, and new training for officers to ensure that their interactions with the press remain appropriate and lawful.

*Treasurer*  
**Michael Collier**  
National-Foreign Editor  
San Francisco Chronicle

*Secretary*  
**Lila LaHood**  
Development Director  
San Francisco Public Press

The actions of BART police on September 8 are both serious and numerous and should be addressed by the Board.

**BOARD MEMBERS**

**E.B. Boyd**  
Reporter  
FastCompany.com

Most disturbing are the allegations of David Morse, a veteran *Indybay.org* reporter who goes by the nom de plume "Dave Id." Mr. Morse alleges that as he was newsgathering, BART Deputy Police Chief Dan Hartwig singled him out for immediate arrest by pointing in his direction and saying, "him."

**Lisa Chung**  
Writer/researcher/consultant

**Michelle Devera**  
Copy Editor  
San Francisco Chronicle

Mr. Morse was the first of several people to be arrested in such a manner that night. He believes that he was singled out because of numerous articles critical of BART police that he has published since the January 1, 2009 killing of Oscar Grant. Mr. Morse has reported that Deputy Chief Hartwig knows that he is a journalist, and he also notes that upon being isolated from the main group of detainees he was asked by another officer whether he was "Dave Id."<sup>1</sup> If Mr. Morse is correct that he was targeted for arrest based on articles critical of BART police, such action would constitute a grave violation of the First Amendment.

**Lee Hubbard**  
Reporter  
Oakland Post

**Linda Jue**  
Director/Executive Editor  
G.W. Williams Center  
for Independent Journalism

Additionally, BART police unnecessarily detained reporters regardless of whether they displayed police or non-police press credentials. In certain cases, BART police refused to release journalists even after being informed that they were present to document the protest on behalf of media outlets. For example, *San Francisco Chronicle* reporter Vivian Ho was placed in handcuffs after officers were made aware that she was present at the demonstration solely in her capacity as a journalist.<sup>2</sup>

**Holly Kernan**  
News Director  
KALW Public Radio

**Nina Martin**  
Articles Editor  
San Francisco magazine

**Randy Shandobil**  
Consultant

**Laurie Udesky**  
Independent Journalist

**Pueng Vongs**  
Life & Style Producer  
Mercurynews.com

**Bernice Yeung**  
Freelance Journalist

<sup>1</sup> See Dave Id, "Indybay Journalist Arrested at #NoFare BART Protest in Powell Street Station: photos," *Indybay* (Sept. 12, 2011) at <http://www.indybay.org/newsitems/2011/09/12/18690043.php>.

<sup>2</sup> See Editorial, "BART police should let reporters do their jobs," *The San Francisco Chronicle* (Sept. 10, 2011) at A-9.

After roughly 30 minutes, BART police made the decision to release journalists who possessed San Francisco Police Department credentials. However, these journalists were not allowed to remain on the scene. And, in a highly unusual move, BART police directed SFPD officers to confiscate these journalists' credentials, an unnecessary and seemingly punitive action that SFPD media relations director Troy Dangerfield later described as an error that violated SFPD protocol.<sup>3</sup>

In addition to the actions taken by BART police against SFPD-credentialed journalists, officers also detained independent journalists who were newsgathering at the September 8 protest. For example, a group of student journalists was detained at length despite urgent requests for their release by San Francisco State journalism professor Justin Beck, who was on the scene.

Finally, Deputy Chief Hartwig has previously stated that BART police gave two warnings over a public address system and two through a bullhorn prior to encircling journalists and demonstrators in an area outside the fare gates. However, individuals present at the demonstration, including Committee Co-Chair Rebecca Bowe, heard no such announcement. Thus, even if an order was given, BART police did not give journalists a clear and adequate warning that they would be detained.

These actions are unacceptable and appear to be unconstitutional. The BART Board of Directors must put in place safeguards to ensure that a similar incident does not happen again.

Any new policy must include provisions that promote and protect freedom of information, journalists' rights to engage in newsgathering and the public's right to know. It must also include provisions guaranteeing that journalists from independent press outlets are given equal treatment to those displaying press credentials issued by police agencies. This can be accomplished by means such as an alternative method of verifying that they are present to document the event rather than to participate in protest activity. It is never necessary to confiscate legitimate press credentials.

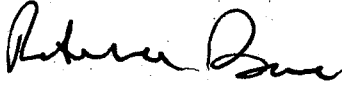
The Society of Professional Journalists would be happy to provide both attorneys and journalists who are experts in freedom of information to assist in setting guidelines for acceptable conduct by officers during such tense encounters.

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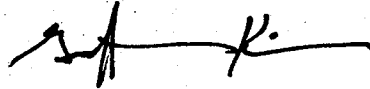
<sup>3</sup> Committee Co-Chairs Geoffrey King and Rebecca Bowe have recently been detained, both for the first time in their capacities as journalists, while covering BART-related demonstrations. (Mr. King has been a photojournalist for eight years, and is also an attorney; Ms. Bowe has been a reporter for seven years). Mr. King was encircled by SFPD while walking on the sidewalk with demonstrators on August 22, 2011. He was released immediately upon showing a non-SFPD press credential to his otherwise-arresting officer. Upon his release, Mr. King continued covering the arrests, and later attended an SFPD press conference about the protest. By contrast, Ms. Bowe was detained by BART police at the September 8 demonstration for approximately 30 minutes, her SFPD-issued press pass was confiscated, and she was prevented from further covering the arrests within the Powell Street BART station.

Since protests are likely to continue, we view these requests as urgent and look forward to your timely response.

Sincerely,



Rebecca Bowe  
Co-Chair, SPJ FOI Committee



Geoffrey King, Esq.  
Co-Chair, SPJ FOI Committee

cc: BART Media Relations Communications Officer Jim Allison, San Francisco  
Police Department Media Relations Lieutenant Troy Dangerfield, San Francisco  
District Attorney George Gascón, *The San Francisco Chronicle*, *The San Francisco Examiner*, *The Bay Citizen*, *The San Francisco Bay Guardian*, *The Fog City Journal*, *The San Francisco Bay View*, *Indybay.org*, *KTVU*, *KRON 4*, *CBS 5*, *ABC 7*, *KGO Radio*, *KQED*.