

EXHIBIT A

<http://www.indybay.org/newsitems/2009/04/05/18586276.php>

East Bay | Police State and Prisons

No Justice No BART Demands Accountability at MacArthur Station, Oakland, 4/2/09: video

by dave id

Sunday Apr 5th, 2009 5:31 PM

On April 2nd at the MacArthur BART station, No Justice No BART defied the intimidation of two dozen riot police and metal barricades yet again and distributed fliers with campaign objectives to over 1000 commuters coming and going during rush hour. Many riders expressed support during discussions with demonstrators. Some even joined the rally to express their dissatisfaction with BART and its handling of the murder of Oscar Grant. To this date there has been no accountability demanded by BART of any of the officers present when Oscar Grant was murdered, Police Chief Gary Gee, or Board Director Dorothy Dugger who oversees BART police. All remain in the gainful employ of BART (except for Mehserle who resigned) and no one has been disciplined in any way for their actions or lack thereof. Committed for the long haul until justice is done, NJNB is currently making plans for their next steps, including a weekend demonstration at another BART station. Additionally, they intend to diversify targets and tactics in their ongoing campaign for justice for Oscar Grant.



Copy the following to embed the movie into another web page:

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[download video:](#)



[njnb_macarthur_040209.mp4](#)
[\(30.8MB\)](#)

(video 9:42)

Photos from the MacArthur action on April 2nd: <http://www.indybay.org/newsitems/2009/04>

[/04/18585932.php](#)

NJNB at Rockridge Station, 3/19/08: <http://www.indybay.org/newsitems/2009/03/23/18581464.php>

NJNB's first action at the Fruitvale Station, 3/5/09: <http://www.indybay.org/newsitems/2009/03/08/18575598.php>

No Justice No BART: <http://nojusticenobart.blogspot.com>

BART HISTORY OF MURDER, COVER-UP, AND RACIAL PROFILING

BART police officer Fred Crabtree shot Jerrold Hall, who was unarmed, in the back of his head with a shotgun at the Hayward station in 1992:

<http://www.indybay.org/newsitems/2009/03/23/18580918.php#18580925>

<http://www.indybay.org/newsitems/2009/02/17/18571372.php>

BART police officer David Betancourt killed a naked Bruce Edward Seward at the Hayward station in 2001:

<http://www.indybay.org/newsitems/2004/10/17/16999221.php>

BART has been caught lying about these murders and no one was ever held to account.

For a flashback on the cover-up of the murder of Oscar Grant, here's what BART was reporting to the media on January first, before video of the actual murder surfaced: "A young man allegedly involved in a fight aboard a BART train was shot to death by a BART police officer on the platform of the Fruitvale Station early New Year's Day, in the midst of a brawl.... BART spokesman Jim Allison said the victim was not restrained when the gun discharged." Note that it was in the "midst" of a brawl, they said, that Oscar Grant was not restrained when he was shot (in the back), and that the gun innocently "discharged." Once the video went public, Chief Gee had the gall to say that he found the footage to be inconclusive and that the public should just be patient while they investigated. Despite the fact that BART had video footage of Tony Pirone striking Grant just minutes before he was shot, BART did not initiate any investigation into Pirone's actions until after that footage was aired on TV three weeks later. Director Dorothy Dugger then remarked that it was a "new allegation of unreasonable force."

Now BART has one supposed investigation into the officers on the platform that night (none of whom called for medical assistance or even reported a shooting after Grant was shot) and another looking into if BART even needs a police force, but these "investigations" are being conducted by people BART itself chose without public input. Knowing even a glimmer of BART history, there is little reason to expect anything more than whitewash and self-justification from these investigations without sustained public pressure.

A former BART employee talks about BART's long time racial profiling here:

<http://www.indybay.org/newsitems/2009/03/23/18580918.php#18580933>

Kristian Williams recently spoke in Oakland on a future without police of any kind:

<http://www.indybay.org/newsitems/2009/04/01/18585333.php>

<http://nojusticenobart.blogspot.com>

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EXHIBIT B

<http://www.indybay.org/newsitems/2009/07/17/18608467.php>

East Bay | Police State and Prisons

Johannes Mehserle Preliminary Hearing Transcripts - Days 5-7, May 27th-June 4th, 2009

by dave id

Friday Jul 17th, 2009 12:52 AM

From the PEOPLE OF THE STATE OF CALIFORNIA VS. JOHANNES MEHSERLE trial, here are the full court room transcripts of the final three days of the preliminary hearing -- May 27th, June 3rd, and June 4th at the Alameda County court house.

There is no need to rely on incomplete and misleading corporate media stories about the court proceedings. The corporate media has largely reported the testimony of the BART police verbatim, without revealing the major contradictions in their testimony nor their racist and violent behavior that was exposed in the court room. Read the perjurious testimony of BART police officers Marysol Domenici and Tony Pirone for yourself. They attempted to create a false sense of their fear on January 1st before Johannes Mehserle shot Oscar Grant III in the back. Read how, despite defense attorney Michael Rains' best efforts to subvert justice, the hearing closed with Judge C. Don Clay declaring, "There is no doubt that Mehserle intended to shoot Oscar Grant with a gun and not a taser," just before he ruled that Mehserle will indeed stand trial for murder.

Mehserle Preliminary Hearing Vol. 4, part 1, May 27th, 2009:

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA
BEFORE THE HONORABLE C. DON CLAY, JUDGE
DEPARTMENT NO. 2

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PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF,
VS.
JOHANNES MEHSERLE,
DEFENDANT.

COPY

NO. 547353

REPORTER'S TRANSCRIPT OF PROCEEDINGS

PRELIMINARY HEARING

KENNETH C. DAVIDSON COURTHOUSE
1225 HALLON STREET, OAKLAND, CALIFORNIA

WEDNESDAY, MAY 27, 2009

A-P-P-R-A-R-A-N-C-E-S

FOR THE PEOPLE: DAVID STEIN
DEPUTY DISTRICT ATTORNEY
FOR THE DEFENDANT: MICHAEL RAINE
ATTORNEY AT LAW

VOLUME 4
PAGES 600-757

RUBY GOMEZ, CSR NO. 12971

[mehserlepreliminaryhearingvol4part1_052709.pdf](#)
[download PDF \(2.5MB\)](#)

(76-page PDF)

Indybay also has first-hand reports from Oscar Grant supporters who were inside the court room all

seven days of the preliminary hearing at <http://www.indybay.org/newsitems/2009/05/24/18597663.php>.

Special thanks to those who generously donated the transcripts so that they can be shared here. Hopefully the court records for hearing days May 18th, 19th, 20th, and 26th can be acquired and posted here in the future as well.

<http://www.indybay.org/oscargrant>

[§Mehserle Preliminary Hearing Vol. 4, part 2, May 27th, 2009:](#)

by dave id *Friday Jul 17th, 2009 12:52 AM*

1 Q. You also heard on the radio that Tony asked for
2 run-throughs. I assume you're referring to Officer Pirone. He
3 asked for run throughs and you told him, "Don't worry about
4 that. I've taken care of it?"
5 A. This is after.
6 Q. Yes.
7 A. Yes.
8 Q. What's a run-through?
9 A. A run-through is where central -- you advise dispatch
10 to talk to central, which is the main people that operate the
11 trains. And what you tell them is run through. When a train
12 goes through and it's not going to stop and let passengers out.
13 So they run through with the doors closed. So whoever had to
14 get off at Brantvale, they had to get off at the next station.
15 Q. Given your concern for your safety and the safety of
16 your fellow officers with regard to these people lined up
17 against the wall, why didn't you ever search them if you thought
18 there was a high probability that they might have guns?
19 A. The fact that I didn't search them at the time was,
20 in the beginning, it was just Tony and I. And for me to direct
21 all my attention on one or two individuals at that time knowing
22 that there was four and me not covering Officer Pirone's back
23 when he was trying to get the other subject off the train, I did
24 not want to do that.
25 Q. Why didn't you say to Officer Pirone, "Well, Tony,
26 before you go do that, hey, this is New Year's Eve. We just had
27 that gun call. I know that the people on that train have guns.
28 Before you go do that, what do you say you assist me in

RUBY GOMEZ, ISR NO. 12971

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[§Mehserle Preliminary Hearing Vol. 4, part 3, May 27th, 2009:](#)

by dave id Friday Jul 17th, 2009 12:52 AM

733

1 Q. And can you tell us what side of the duty belt you
2 carried your Taser on?
3 A. On my weapon side with the cross-draw fashion for the
4 weak hand.
5 Q. Are you right-handed or left-handed?
6 A. Right-handed, sir.
7 Q. So your firearm would have been on the right side of
8 your equipment belt?
9 A. That's correct.
10 Q. Are you telling us that your Taser was also on the
11 right side of your equipment belt?
12 A. Yes, I am, sir.
13 Q. And I don't know if you can demonstrate it as you sit
14 there. But if you need to draw your Taser, as apparently you
15 did, how would you grab the Taser then?
16 A. With my left hand, sir.
17 Q. So you would take your left hand and you said
18 cross-draw?
19 A. Correct.
20 Q. I'm reaching across the front of my belt here with my
21 left hand. Is that how you would do it?
22 A. Yes, sir.
23 Q. And you would take the Taser out of the holster?
24 A. Yes, sir.
25 Q. And you did that?
26 A. Yes, sir.
27 Q. When in relation to January 1st, 2009, had you
28 attended Taser training?

RUBY GOMEZ, CSR NO. 22971

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[§Mehserle Preliminary Hearing Vol. 5, part 1, June 3rd, 2009:](#)

by dave id Friday Jul 17th, 2009 12:52 AM

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4 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
5 IN AND FOR THE COUNTY OF ALAMEDA
6 BEFORE THE HONORABLE C. DON CLAY, JUDGE
7 DEPARTMENT NO. 2
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9 PEOPLE OF THE STATE OF CALIFORNIA,)
10 PLAINTIFF,) **COPY**
11 VS.) NO. 547353
12 JOHANNES MEHSERLE,)
13 DEFENDANT.)

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15 REPORTER'S TRANSCRIPT OF PROCEEDINGS
16 PRELIMINARY HEARING
17 RENE C. DAVIDSON COURTHOUSE
18 1225 FALLON STREET, OAKLAND, CALIFORNIA
19 WEDNESDAY, JUNE 3, 2009
20
21 A-P-P-E-A-R-A-N-C-E-S

22 FOR THE PEOPLE: DAVID STEIN
23 DEPUTY DISTRICT ATTORNEY
24 FOR THE DEFENDANT: MICHAEL RAINS
25 ATTORNEY AT LAW
26
27 VOLUME 5
28 PAGES 758-914

RJBY GOMEZ, USA NO. 12871

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<http://www.indybay.org/oscargrant>

Mehserle Preliminary Hearing Vol. 5, part 2, June 3rd, 2009:

by dave id Friday Jul 17th, 2009 12:52 AM

824

1 A. No.
2 Q. That's not true?
3 A. No.
4 Q. Isn't that what you told the detectives at the time
5 that you were present on the platform for the walkthrough?
6 A. I don't recall.
7 Q. Well, you have a copy of the report there in front of
8 you. Can you pick that up, please. And if you could --
9 A. Which one is it?
10 Q. This is the supplemental.
11 THE COURT: What's the evidence number, Mr. Stein?
12 MR. STEIN: I think it's 38. It's marked People's
13 38.
14 Q. If you can turn to page two. See if this refreshes
15 your recollection. Midway through the first paragraph, do you
16 see where it says:
17 "When the males reached the area between the second
18 and third train cars and saw Pirone approaching, two
19 of the males split from the group and boarded the
20 train. Pirone contacted the other three males on the
21 platform and directed them to the wall to his right."
22 Do you see that, sir?
23 A. Yes, I do, sir.
24 Q. Does that refresh your recollection as to whether or
25 not those two individuals broke for the train before you even
26 said anything to any members of the group?
27 A. No, it does not.
28 Q. It does not refresh your recollection?

ROBY GOMEZ, CSR NO. 12972

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<http://www.indybay.org/oscargrant>

§Mehserle Preliminary Hearing Vol. 5, part 3, June 3rd, 2009:

by dave id Friday Jul 17th, 2009 12:52 AM

906

1 which the statements were made by Mr. Mehserle?
2 A. Yes.
3 Q. And so, in fact, the order in which the statements
4 were made by Mr. Mehserle were exactly the way that I presented
5 them to you just a minute ago, true?
6 A. From what I remember on the 1st, yes.
7 Q. And when Mr. Mehserle asked you to, "Get up, get up,"
8 you thought that was odd, correct?
9 A. Yes, sir.
10 Q. And you've never been told that before to get up
11 under those circumstances, correct?
12 A. That's correct, sir.
13 Q. And that was because you were in the process of
14 trying to keep hold of this individual and here he is telling
15 you to get off of this individual, correct?
16 A. Yes, sir.
17 Q. That didn't make sense to you at the time?
18 A. No, it didn't.
19 Q. And even though at the time that he was telling you
20 this, you saw Oscar Grant's hands, so you say, go to towards his
21 waistband, correct?
22 A. All I saw was a red triangle.
23 Q. Did you see his hands go towards his waistband?
24 A. I never saw his hands.
25 Q. Can you pick up the first transcript again.
26 A. Yes, sir.
27 Q. And turn to page 14. Start at line 12, where it
28 reads:

EJBY GOMBE, CSR NO. 12971

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§Mehserle Preliminary Hearing Vol. 6, part 1, June 4th, 2009:

by dave id Friday Jul 17th, 2009 12:52 AM

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 IN AND FOR THE COUNTY OF ALAMEDA
 BEFORE THE HONORABLE C. DON CLAY, JUDGE
 DEPARTMENT NO. 2
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THE PEOPLE OF THE STATE OF CALIFORNIA,
 Plaintiff,
 vs. NO. 547353
 JOHANNES MEHSERLE,
 Defendant.

REPORTER'S TRANSCRIPT OF PROCEEDINGS
 PRELIMINARY HEARING
 RENE C. DAVIDSON
 OAKLAND, CALIFORNIA
 THURSDAY, JUNE 4, 2009

APPEARANCES:

For the People:	THOMAS O'LOFF DISTRICT ATTORNEY BY: DAVID STEIN Deputy District Attorney
For the Defendant:	MICHAEL PAINE Attorney at Law

VOLUME 6
 PAGES 915 - 1062

TERESA AGUILAR, RPT, CRP, CSR 10499

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§Mehserle Preliminary Hearing Vol. 6, part 2, June 4th, 2009:

by dave id Friday Jul 17th, 2009 12:52 AM

365

1 that LEO?
2 A. I'm confused with the question.
3 Q. You said you were surprised when the gun shot went
4 off, correct?
5 A. Yes, sir.
6 Q. And the reason why you were surprised is because you
7 believed in your mind that to solve this problem of
8 handcuffing Mr. Grant, that this problem would be solved
9 once Mr. Reyes got his leg out from underneath Mr. Grant?
10 MR. RAINS: That misstates his testimony and that
11 assumes facts not in evidence.
12 THE COURT: Sustained.
13 BY MR. STEIN: Q. Isn't it true, sir, that on the
14 morning of January 7th, 2009 you posed more of a threat to
15 Oscar Grant than he ever posed to you?
16 MR. RAINS: Objection, relevance.
17 THE COURT: Sustained, and it's argumentative.
18 BY MR. STEIN: Q. When you look back now with the
19 way you handled this situation, anything you would have
20 changed?
21 A. No, sir.
22 MR. STEIN: That's all I have.
23 THE COURT: All right.
24 Mr. Rains, anything further?
25 MR. RAINS: Briefly.
26 REDIRECT EXAMINATION BY MR. RAINS
27 Q. Officer Pirone, you were asked questions about the
28 various interviews and the statements you made during the

TERESA COLLAR, APR, CRF, CS? 10498

[mehserlepreliminaryhearingvol6part2_060409.pdf](#)

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<http://www.indybay.org/oscargrant>

[§Mehserle Preliminary Hearing Vol. 6, part 3, June 4th, 2009:](#)

by dave id *Friday Jul 17th, 2009 12:52 AM*

1 THE COURT: Sustained. I can see it.

2 BY MR. RAJES: Q. Play the video forward, if you

3 will.

4 A. At this point, Mr. Grant is down.

5 Q. All right. Now you indicate at 2:09:03 that from --

6 2:09:03 to 2:09:08 on the Cross video, we see Grant rotating

7 counter-clockwise and the right forearm contacting the

8 platform; is that correct?

9 A. That's correct. Here is Mr. Grant's right elbow.

10 Here is his head and his right forearm, and he's rotating as

11 we view the image, counter-clockwise.

12 Q. And do we see at some point shortly after that him

13 on the ground where his knees are partially bent?

14 A. Yes. At this frame right now, for example, 2:09:19

15 on the Vargas video, I'm pointing at Mr. Grant's knees.

16 Here is his right knee and left knee, and they are raised.

17 Q. And is he on his back at this point?

18 A. Yes. Directing your attention to Cross, here is

19 Mr. Grant's right arm, and pointing with the arrow here is

20 his left arm.

21 Q. All right. At some point in time, does Officer

22 Pirone reach down and put his hand under Grant's head

23 shortly after that?

24 A. Yes, sir.

25 Q. Show us that?

26 A. It would be visible in Cross. Mr. Grant's head is

27 coming down to the platform; Officer Pirone places his hand

28 beneath it.

CHERESA ACILIAE, RPR, CRP, CSK 10498

[mehserlepreliminaryhearingvol6part3_060409.pdf](#)
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EXHIBIT C

<http://www.indybay.org/newsitems/2009/08/18/18616417.php>

[East Bay](#) | [Police State and Prisons](#) | [Racial Justice](#)

BART Police Oversight Vs. Every Cop Union in the State; Police Chief Gee Out; and a Rumor

by dave id

Tuesday Aug 18th, 2009 12:41 AM

Just three days after the [proposal was forwarded from the subcommittee on police oversight](#), the BART Board of Directors voted unanimously on Thursday, August 13th, in favor of submitting the new police oversight plan to the California legislature for approval. As legislators debate the plan's merits, or lack thereof, it is certain to be vehemently resisted by every police union in the state, as the Peace Officers Research Association of California (PORAC) has already threatened. The BART Board is currently lobbying legislators to pass the proposal, and undoubtedly statewide police representatives are lobbying for rejection of the plan. BART is hoping that the Board's unanimous support for the proposal will be enough to serve the police unions a rare defeat in the state legislature.



gee_dugger_johnson_lying_...

Over the weekend, as BART negotiated with its own labor unions to avoid a strike that would have shut down BART on Monday, Police Chief Gary Gee announced that he will be retiring from the force by December 30th of this year, two days short of the first anniversary of the murder of Oscar Grant.

The removal of Chief Gee has been a top priority for community activists since January after he declared in a press conference that all of the officers on the Fruitvale platform when Oscar Grant was

murdered acted professionally and according to protocol. He said this despite having seen a [high-quality video with audio](#) and accounts of numerous eye-witnesses to the contrary. Chief Gee has failed to discipline a single officer for misconduct related to the murder on New Year's Day. It might be one of his very last acts as Chief to finally do so, according to rumors surfacing now.

Rumor has it, indirectly heard from two elected officials, one within BART and one within city government, that the long overdue [Meyers Nave investigative report](#) on the events of January 1st is set to be released in the very near future and that the report comes down hard on the extremely unprofessional behavior of the officers who detained Oscar Grant and his friends. If the report indeed makes such conclusions, it will validate what [community activists have been saying all along](#). There is no advance word on whether the report will recommend criminal charges against at least Tony Pirone as activists have demanded.

If the Meyers Nave report does turn out to be critical of BART police behavior and not merely a public relations whitewash as some in the community have feared it might be, then it becomes obvious why Chief Gee announced his resignation on Saturday. If the report were to vindicate the BART police at Fruitvale, then it would have also vindicated Gary Gee for taking no action against them and he likely would remain on the force. But, if Gee's officers were out of control -- acting more like a racist, murdering gang than a professional police force -- and Gary Gee failed to hold them to account for their behavior, then he himself is culpable for his own gross negligence as their supervisor. And so his resignation ahead of the release of such a report makes sense.

Looking forward, General Manager Dorothy Dugger is just as culpable as Chief Gee for the failures of the BART police. She is the only one who currently has the authority to reprimand or fire Chief Gee (not even the BART Board legally can), and yet she has failed to do so. Likewise, she has made false statements in support of Gee and the officers involved on the Fruitvale platform. Dugger publicly has stood by Gee and the BART police, deflecting responsibility to Meyers Nave and [NOBLE](#) to tell her what to do. Additionally, Tony Pirone and Marysol Domenici need to be held to account for their actions on January 1st, not to mention the perjury they both committed during [Johannes Mehserle's preliminary hearing](#). Why none of the other officers present on the Fruitvale platform felt compelled to check Pirone and Domenici as they assaulted Oscar Grant and his friends, and why they all apparently hesitated in calling for medical assistance after Oscar Grant was shot in the back, are more outstanding issues BART has yet to deal with.

While BART's Board-approved draft for police oversight is flawed for tying its citizen's board's hands with a supermajority requirement and by allowing BART's two police unions to appoint a "citizen" oversight board member, amongst other issues, it is unique in a state dominated by the [Police Bill of Rights](#) in that it actually allows civilians outside of BART's police force to have a say in discipline for officer misconduct. Hence the very strong police resistance to the plan -- they worry that it is a foot in the door to stronger civilian police oversight statewide. One can only hope...

Presumably the bill to create external police oversight at BART will pass through the California Assembly's Public Safety Committee, as did [Tom Ammiano's AB312](#), which was an earlier legislative attempt to establish BART police oversight that was stymied by [BART itself](#) and [statewide police unions](#). Assemblypersons [Jerry Hill](#) and [Warren Furutani](#) voiced support for AB312, but passage will

also require convincing previously undeclared Assemblypersons [Fiona Ma](#) from San Francisco and/or [Nancy Skinner](#) from Berkeley in order to move the bill forward. Supporters of increased police oversight at BART should call or email these officials to encourage support for the plan. You can also show up at the offices of Fiona Ma and Nancy Skinner on Fridays when they are required to be in their local offices.

previous related post:

BART Anxious to Wrap Up Police Oversight Plan at Final Subcommittee Meeting: audio & PDFs
<http://www.indybay.org/newsitems/2009/08/14/18615770.php>

<http://www.indybay.org/oscargrant>

[§BART's PR announcement after unanimous vote for police oversight proposal, probably prepared before vote](#)

by dave id *Tuesday Aug 18th, 2009 12:41 AM*

EXHIBIT D

<http://www.indybay.org/newsitems/2009/10/27/18626905.php>

[Central Valley](#) | [East Bay](#) | [Police State and Prisons](#) | [Racial Justice](#)

**CA Assembly Hearing on BART's Deeply Inept, Reckless, and Corrupt Police Force, 10/20/09:
audio and PDFs**

by dave id

Tuesday Oct 27th, 2009 12:25 PM

At the State Capital in Sacramento on October 20th, Assemblymember Tom Ammiano, chair of the Committee on Public Safety, [held a hearing](#) to restart the process of reigning in BART's dysfunctional police department from the state level. (Audio and PDFs from the hearing below.) Apparently intended to lay the groundwork for future hearings, the subject matter of the hearing was limited largely to a review of the [Meyers Nave report](#) on events surrounding the murder of Oscar Grant III on January 1st and the [NOBLE report](#) on BART's police department itself. Hearings on police oversight at BART, including discussions of both AB312 and AB1586, are expected to begin in January or February 2010. Through the end of this year, the more community pressure placed on BART and public safety committee members the better for those seeking justice for Oscar Grant.



assemblypublicsafetyheari...

In April, when Ammiano, then as a non-ranking member of the public safety committee, held a hearing on his bill AB312, which would have established police oversight at BART in the model of San Francisco's [Police Commission](#) and [Office of Citizens' Complaints](#), BART showed up at the last minute with [a letter](#) assuring the committee that they had it under control and didn't need state intervention. Between BART's "just trust us" stalling tactic and the representatives of [every police union in the state](#) vocally opposing the measure, AB312 was [dead on the tracks](#).

BART did [begin to hold](#) a series of meetings, [public](#) and semi-public, in order to craft their own police oversight plan, but the deck was [stacked against accountability](#) from the get. There was a pretense of public involvement, but much of the plan was [created behind closed doors](#) and concessions to BART police were made all along the way, in hopes that a "consensus" plan would have a better chance of being enacted. Of course, it turns out that BART had little intention of following through with a plan that reflected even a modicum of what the public and community activists had been demanding all along, primarily that citizens and the BART Board of Directors would have the final say in matters of police discipline, not the General Manager and the Police Chief, neither of whom has seen fit to discipline a single person for the many failures of their officers and supervisors. While BART was a [orchestrating photo op](#) using "community" members as props, they were also [negotiating with police representatives](#) out of public view to remove whatever teeth their already-weakened oversight plan

contained. In the end, neither the concessions to police made during the crafting of the plan nor the complete betrayal of community activists in giving the police lobby exactly what they wanted in the final language of the proposed bill helped AB1586 actually move forward in the legislature. And so, for the second time this year, as of September [police oversight at BART was dead](#).

And so, we are where we find ourselves today... The Meyers Nave report, which dealt with the misconduct of individual officers and supervisors related to the New Year's Day murder, has been out since August and not a single person at BART has been held accountable to date. The NOBLE report, which excoriates the entire BART police department in every way possible, has been out almost a month and BART still insists that it needs an armed police force of its own. And now Ammiano, as committee chairman, is stepping back into the fray after having his efforts frustrated in April. He called on representatives of BART, Meyers Nave, and Peace Officers Standards and Training to testify before the public safety committee.

Jayne Williams, of Meyers Nave, addressed the committee first, flatly recounting points made in the public version of the report produced by her law office. During her segment of the hearing, Ammiano questioned the 6-hour detainment of Oscar Grant's friends with handcuffs and showed interest in the fact that BART supervisors allowed the [high-resolution video of the murder stolen from Tommy Cross](#) to be viewed by officers from the scene before they filed their incident reports. Assemblymember Jerry Hill presciently asked if BART even needs a police force. Of course, Jayne Williams replied that BART does (just as NOBLE feebly did in their report).

Bob Stresak, of the California Commission on Peace Officer Standards and Training (POST), runs through state standards in the training of police officers without offering any specific information or critiques of BART police and their training (or lack thereof). Ammiano asked questions related to applicant screening and policies regarding the use of tasers versus other weapons. Bob Stresak says that not every police department in the state uses tasers so there is no state-wide sanctioned training in their use. Jerry Hill asks about transit police training versus other types of departments. Fiona Ma asks about records kept by POST and it told that they are non-public and have to be sought through the California Public Records Act (which is ironic in that Fiona Ma is one of the reasons police still enjoy legal protections not offered to any other group of people due to the continued existence of the [California Police Bill of Rights](#)).

BART General Manager Dorothy Dugger and BART PD Commander Travis Gibson, along with BART lawyer Matt Burrows, spoke to the Meyers Nave NOBLE reports and the supposed corrective actions BART is taking. Police Chief Gary Gee was said to be on medical leave and unavailable to attend, which is par for course when he's failed to make any serious adjustments to his department in the many months since the murder of Oscar Grant and he appears to be cruising to receiving his full retirement by the end of the year. BART brought print-outs to show just how active they are in responding to the reports and how necessary their police force actually is. But as pointed out by one of two public speakers, the supposed fact sheet offered by BART lists weapons confiscated by BART over the years (implying that BART police must be armed to respond), the simple listing of numbers gives no indication of how many of those weapons were being used in the commission of crimes on BART. Any numbers BART presents regarding police actions are suspect as the NOBLE report makes abundantly clear that record keeping in BART's police department is shabby to non-existent.

Basically, the only thing that BART has done to date to respond to the murder of Oscar Grant is to spend close to \$400,000 to hire Meyers Nave and NOBLE to tell them what community activists have been telling them all along. Dorothy Dugger is very slippery when she addresses the Meyers Nave report, stating that the full version is non-public, ignoring that no personnel actions have been taken against named offenders, and then moving right along to *future* actions BART is taking or intends to take. Their "action plan" only addresses issues raised in the public version of the Meyers Nave report which does not name names. As BART has before in Board meetings, Dugger trumpets that all use of force incidents will now be reported by BART police, as if the fact that they supposedly will no longer let their officers run around using force on passengers without reporting it is such a magnificent achievement. She touts that they are working on revising their police policy manual, sections of which have not been updated in decades according to Meyers Nave (thanks, Chief Gee). And they claim to be increasing the number of hours officers are trained. None of which address the bad actors in their midst who surely would be as resistant to change as Gary Gee has been over the years. Additionally, most of the supposed improvements, such as standardizing disciplinary procedures, are not verifiable in a world where people like Dorothy Dugger and Gary Gee alone have the power to enforce discipline, having shown no inclination to discipline officers videotaped verbally and physically abusing BART passengers and [perjuring themselves in court](#).

Despite BART continuously attempting to operate in the dark out of public view, tidbits of information do come forward in events such as these. For instance, it was learned that Johannes Mehserle was not drug tested after shooting Oscar Grant in the back. (Gibson was droning on about it being BART police policy to drug test after such incidents, but the lack of testing in the case of Mehserle only came to light after Ammiano asked about it. Gibson was more or less misleading the committee to believe that Mehserle had been tested.) Mehserle supposedly wasn't even interviewed by superiors or internal investigators after the shooting, so his supposedly not having been tested is not shocking. (Yes, the word "supposed" is used a lot when discussing BART because so much of the information they offer is not independently verifiable and they have shown themselves to have virtually no credibility.) It can safely be assumed that none of the other officers on the Fruitvale BART platform were tested either. Several witnesses at the scene reported that the officers seemed "jacked up" unnecessarily, leading to questions of steroid or other stimulant drug use by BART officers. Laughably, Gibson offers only two words for why Mehserle was not tested: "because of."

At one point during the hearing, Gibson discusses BART police having rubber bullets and OC (tear gas) in their arsenal. (For what, who knows? Oh, yeah, in order to confront Justice for Oscar Grant demonstrators the [BART police Tactical Team](#) parades in full regalia. And at what expense, who knows?) In his instinctual defense of fellow officers, even those who brutalize and murder, Gibson trots out yet again that there was supposedly an incident earlier on New Year's Eve where officers had responded to an incident involving a a weapon. While that is irrelevant to the point he is making in defending BART police supervisors on the night of the murder, he makes sure to repeat this rationale that BART police have thrown out before as a sort of excuse for the police aggression that culminated in the shooting death of Oscar Grant. Gibson goes out of his way to dispute the accusation in the Meyers Nave report that police supervisors were not doing their jobs around the time of Oscar Grant's death. Jerry Hill asked Gibson about the police complaint process. In a sign of how seriously BART takes citizen complaints and police violence against passengers, Gibson claims, as have others at

BART, that the department only receives an average of 12-15 complaints a year -- yet even with such a small number he does not know how many of those were for excessive force. No word on if the man who was [tasered while handcuffed by BART police](#) filed a complaint.

Public speakers pointed out that the logical conclusion to be drawn from the reports, especially NOBLE's -- and the fact that a part-time Board of Directors will never be able to properly oversee their police -- is that BART police are "too broke to fix" and should be disbanded. There is no reason for such a militarized force in the BART system. As for BART's claims of reform, there is little reason to trust anything they say on the matter as they have not acted in good faith since the murder of Oscar Grant -- every last person involved in the incident is still on the BART payroll. And if there is to be a BART police force, it must have strong civilian oversight or the problems will continue.

Unfortunately, only three committee members were present for the hearing: Tom Ammiano, Jerry Hill, and Fiona Ma, who arrived late. While just three community activists were able or willing to attend, two of whom made statements during the public comment period at the end, there were over a dozen people in suits in attendance of unknown identity. Presumably several of whom were members of [PORAC](#) (Police Officers Research Association of California) and other police lobbying groups. Gregg Savage, President of the BART Police Managers' Association and member of the [BART police oversight subcommittee](#), was seen in attendance, speaking to those seated around him. None of those watching from the back stepped up to comment during the hearing.

The next hearings on the BART Police Department before the Assembly's Committee on Public Safety are expected to be scheduled for January or February.

It is hoped that Chairman Ammiano and other committee members show more resolve than they did previously, and that they do not kowtow to the interests of police lobbies, already over-represented in state law. If legislators crumble to police pressure, then 2010 will look no different than [1992](#), [2001](#), or [2009](#) and BART's dangerous police force will carry on as it always has without transparency and accountability.

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<http://www.assembly.ca.gov/acs/newcomframeset.asp?committee=57>

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BART Board of Directors:

<http://www.indybay.org/newsitems/2009/08/05/18614124.php#18614125>
<http://bart.gov/about/bod/index.aspx>
[boardofdirectors \[at\] bart.gov](mailto:boardofdirectors@bart.gov)

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more info:

NOBLE Presents Disturbing Report on BART Police Department, 10/1/09: audio and full report
<http://www.indybay.org/newsitems/2009/10/02/18624186.php>

BART Police Oversight Plan Dead
<http://www.indybay.org/newsitems/2009/09/20/18622616.php>

BART Releases Public Report from Meyers Nave Investigation of New Year's Day Murder, 8/18/09
<http://www.indybay.org/newsitems/2009/08/18/18616548.php>

<http://indybay.org/oscargrant>
[§California Assembly Committee on Public Safety hearing on BART police audio](#)
by dave id *Tuesday Oct 27th, 2009 12:25 PM*

Listen now:

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[33.9MB](#)

(audio 1:38:48)

Audio missing first ten minutes of hearing, including Ammiano's opening statements and very beginning of Meyers Nave presentation. Public comment begins near the very end at about 1:30:00.

<http://indybay.org/oscargrant>
[§BART handout with self-reported police stats](#)
by dave id *Tuesday Oct 27th, 2009 12:25 PM*



BART extends 104 miles, traveling through 26 cities, where mutual aid police service is frequently provided, as requested by those cities.

With average weekday ridership of 345,000, BART has a customer population nearly the size of Oakland, the third largest city in the SF Bay Area. (pop. 404,000)

Oakland has 803 sworn officers, while BART has 206 (25% of the OPD).

Response Times

Emergency: 4 minutes or less

Non-emergency: 8 minutes or less

Training

Every State of California peace officer shall satisfactorily complete Continuing Professional Training (CPT) of 24 or more hours of POST qualifying during every

Staffing:

24 hours and 7 days operations

- Chief and Commanders 3
- Lieutenants 10
- Sergeants 31
- Civilian Supervisors 5
- Police officers 162
- Revenue protection Guards 19
- Police Dispatcher: 16
- Senior Clerk/Administrative Specialists: 8
- Community Service officers: 32

(Please send a fully dated if this document Board and accurate statistical information
 being submitted for BART's Board of Directors' review at www.bart.gov/pressroom/

**BART Police Department
General Statistics**

	2001	2002	2003	2004	2005	2006	2007	2008	
ARRESTS	Police Contacts	52,626	47,731	49,719	51,155	50,097	47,590	45,453	
	Crime Contacts	24,545	21,412	23,121	21,345	17,838	16,650	19,649	
	Felony Contacts	4,047	3,633	2,562	2,951	2,316	2,384	2,265	
	Weapons Confiscated in Contacts	Not Available	53	73	80	78	90	103	58

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San Francisco Bay Area Rapid Transit District



[assemblypublicsafetyhearing_bartstats_102009.pdf](#)
[download PDF \(124.2 KB\)](#)

(1-page PDF)

The comparison with a city population is disingenuous, unless you're talking about a city where all

residents are only present for less than an hour a day. These statistics on BART police must be taken with a huge grain of salt as BART police record-keeping has been shown to be substandard, to put it mildly, or corrupt, to call it out as the NOBLE and Meyers Nave reports did.

<http://indybay.org/oscargrant>

§Dorothy Dugger's and Travis Gibson's self-justifying statement (Gary Gee a no-show)

by dave id *Tuesday Oct 27th, 2009 12:25 PM*

[Please credit Indybay.org if this document used as source material elsewhere.
More Justice for Oscar Grant Movement news at www.Indybay.org/oscargrant1]

**Testimony of Dorothy W. Dugger, General Manager
San Francisco Bay Area Rapid Transit District**

**Assembly Public Safety Committee
Informational hearing:
BART Police: Training, Policies and Procedures
Tom Ammianno, Chairman
Room 126 State Capitol
October 20, 2009**

Chairman Ammianno,

My name is Dorothy Dugger and I am General Manager of the San Francisco Bay Area Rapid Transit District (BART). This morning I am joined by Matt Burrows, BART General Counsel, and Commander Travis Gibson, currently acting for BART Police Chief Gary Gee who is on medical leave.

I appreciate the opportunity to come before you today to discuss the actions that BART has taken in response to the officer-involved shooting of Oscar Grant on January 1st. While the events that bring us here today are irreversible, I want to assure you that we have worked diligently this year, along with members of the public - to conduct a comprehensive review of our Police Department and to make the improvements necessary to strengthen the Department in ways that will help avoid a similar tragedy in the future.

In January 2009, the BART Board of Directors established the BART Police Department Review Committee to provide greater Board focus on BART Police and the services they provide to the public. The Board has also held dozens of public meetings to hear community concerns; to involve the public in the efforts we have undertaken to get to the bottom of what happened on New Year's Day; to review the training, policies, practices and procedures of our Police Department; and to establish citizen oversight at BART.

I will begin by giving you an overview of actions BART has taken in response to the officer-involved shooting at the Fruitvale Station on January 1. Commander Gibson will conclude by reporting on the

1

[assemblypublicsafetyhearing_bartdugger_102009.pdf](#)

EXHIBIT E

<http://www.indybay.org/newsitems/2010/02/05/18637119.php>

[California](#) | [East Bay](#) | [Police State and Prisons](#) | [Racial Justice](#)

Oscar Grant Family Attorney John Burriss Confronts BART's Bad Faith Attacks, 2/5/10: video

by dave id

Friday Feb 5th, 2010 10:10 PM

KTVU has obtained exclusive new information: Sources told KTVU, KTVU learned, Sources also told KTVU, KTVU has learned, KTVU has since obtained a Hayward police report, Sources said, According to sources...

And so it goes. Yesterday's [report by KTVU](#) was the final straw and Oscar Grant family attorney John Burriss called a press conference today to confront the attacks on Oscar Grant's family and friends by BART via anonymous sources. [full video below]



burrissoscargrantfamilybar...

Since triumphantly announcing on January 27th that a \$1.5 million settlement had been reached with Sophina Mesa, the mother of Oscar Grant's young daughter Tatiana, BART has busied itself smearing Oscar Grant's friends who were on the Fruitvale station platform with him when [Johannes Mehserle](#)

[murdered](#) him. Together Oscar Grant and his friends were physically abused, threatened, taunted, and cursed at by BART officers Tony Pirone and Marysol Domenici (before Mehserle was even present on the platform). After Oscar Grant was shot in the back and killed, his five friends with him at the time were [wrongfully detained and handcuffed](#) for up to six hours. Yet [BART attorney Dale Allen](#) has been making statements to the corporate media that the agency will "vigorously fight [Oscar's friend's civil suit] based on their contributing actions to the tragic accident," further attempting to publicly discredit his friends with irrelevant claims of "significant police contacts" in the past. BART has long [blamed Oscar Grant](#) for his own murder, but now they are turning up the heat on his friends too, blaming everyone but Mehserle, Pirone, Domenici and their own [deeply inept, reckless, and corrupt police department](#) for the murder.

The settlement already had brought enough consternation to Oscar Grant's family, as well as community activists committed to holding police accountable for their violence against unarmed citizens. BART was so eager to make the announcement that they did so before others parties to suits against BART even had reasonable time to process it with family attorney John Burris. Community activists were taken aback by the relatively paltry amount for Oscar Grant's daughter, who will live nearly her entire life without her father. BART structured the settlement to be paid entirely to Tatiana, with nothing for her mother, breaking payment up into pieces so that BART would not even make good on the full amount until Tatiana is an adult. Adding insult to injury, with word of the settlement out, the corporate media sought comment from Mehserle's defense attorney Michael Rains, who used the opportunity to soften his client's public persona by claiming that Mehserle was "grateful" that BART would be paying money to Tatiana, even though Mehserle himself has refused to be held accountable in any way. Of course, Rains ran with it and reiterated Mehserle's defense that the shooting was accidental, but he also implied that BART not only supports Mehserle in principle but in actuality ([KTVU](#): Rains said BART officials agreed with him that the shooting was an accident and if they thought he had intentionally killed Grant "they would have had no duty to provide a defense for him.") Is BART providing funding, legal services, or *merely* back room exchanges of information for the benefit of Mehserle's defense?

It certainly appears that BART and Rains are working together based on the reports that have appeared recently in the corporate media. Which brings us to KTVU's problematic report from yesterday: *Depositions By Grant's Friends Reducing BART Liability*. The piece purportedly builds a case against Oscar Grant's mother and friends which is beneficial to both BART in resisting the civil suits and Mehserle in his defense against murder charges in Los Angeles Superior Court. But other than quoting opinions from Golden Gate University law Professor Myron Moskovitz and citing a police report of unknown integrity, the entire case it makes is based on anonymous sources. Somebody (or -bodies) is leaking confidential information. It certainly would not be the first time that [information has been leaked](#) (with KTVU again amplifying the message) — despite the gag order in the murder trial that has been in effect on the case since January 2009 — but this is the first time in memory that anonymous sources have been quoted in the media about private discussions related to the civil suits.

This time anonymous sources, obviously with access to privileged information regarding civil suit negotiations, asserted that "BART's potential liability costs were going down" due to statements and depositions Oscar Grant's friends have given. BART appears to be more than willing to violate a mutually agreed upon protective order guiding negotiations and divulge information it deems damaging to the plaintiffs. And this just a mere few weeks after BART Board Director Carole Ward Allen sanctimoniously feigned sympathy and [presented Oscar Grant's family with flowers](#) on the one-year anniversary of his death.

Enough was enough, and John Burris called an "emergency" press conference today to refute in the light of day what he said was misinformation and falsehoods, and to scold BART for the bad faith it was showing by publicly attempting to "diminish" Oscar Grant's friends and family while at the same time taking part in ongoing negotiations over the civil suits. Unified beside and behind Burris were Oscar Grant's mother Wanda Johnson, Oscar's uncle Cephus Johnson, Sophina Mesa, Sophina's mother Rosa, Sophina's sister Lita Gomez, three of Oscar Grant's friends, Jack Bryson, father of Oscar Grant friend Jackie Bryson, and other family and legal representatives.

Burris reminded BART not to get ahead of itself as the settlement for Tatiana is not final, their recent actions perhaps cratering the deal. He said he was angry and noted that he was not afraid to take the civil cases to trial because the civil rights violations perpetrated by BART police were clear, and they were recorded by multiple videocameras. Pointedly, Burris cited the U.S. Supreme Court Dred Scott decision that "a black man has no rights that a white man needs to respect" and declared that BART's actions suggest its position is that Oscar Grant's friends have no rights that BART needs to respect. He also reminds the assembled media that Tony Pirone and Marysol Domenici used their tasers in ways that the Ninth Circuit Court ruled unconstitutional in late December. Additionally, Tony Pirone assaulted Oscar Grant and one of his friends. After the shooting, there was no more concern for Oscar Grant's friends when they were held for hours in handcuffs without probable cause. [As a sidenote, while Oscar's friends were questioned and recorded by BART police on January 1st, 2009, recordings now being cited by anonymous sources via KTVU in defense of Mehserle, Mehserle himself was never once even questioned by BART PD internal affairs [nor given a drug test](#) as was supposedly BART police policy.] Burris insists that he would fight "until the end of time" against BART's implication that African American men with prior criminal conduct no longer have civil rights, can be treated disrespectfully, and placed in a jeopardizing position.

Burris then discusses the violation of agreements of confidentiality signed by BART and all parties involved in negotiations. He questions BART's ulterior motives in leaks that Sophina and Tatiana "left money on the table" and settled for less than earlier offers. He clearly blames BART for the ethical breaches, regardless of if they came from their lawyers or others within the agency.

Finally, Burris questions the assertions coming from BART that Oscar Grant's friends have made statements that are beneficial to Mehserle's defense. He reminds everyone that whatever they may have said at the time was based on fast-moving events and the shock of having witnessed their friend be shot in the back by BART police officer Mehserle -- the multiple video recordings of the incident are a much more accurate portrayal of what happened. He asks if such statements are intended endanger Oscar's friends by putting a "snitch jacket" on them. Burris said that the young men have been threatened and called snitches as a result of BART's statements about private depositions.

Burris takes questions at the end of the press conference. He suggests that BART's outreach to the community to date may have all been disingenuous given their recent actions. Rita Williams of KTVU attempts to defend the responsibility of her reporting with her questioning.

<http://indybay.org/oscargrant>

[§Full video of press conference](#)

by dave id *Friday Feb 5th, 2010 10:10 PM*



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[§Burris' printed press statement](#)

by dave id *Wednesday Feb 10th, 2010 10:28 PM*

PRESS STATEMENT

The family of Oscar Grant and some of the young men on the platform the night of the shooting have called this press conference to address issues raised by recent news account that are misleading and in some instances false.

First, the reports that BART will offer these young men nothing is most shocking. Particularly since there have not been any settlement discussions, says their attorney John Burris. Burris states we are still taking depositions. Additionally, Bart's position suggests that these young men have no rights that Bart need respect. The evidence is clear that after the shooting Pirone, Domenici and others removed them from the platform, handcuffed them and took them to the Bart police station where they remained handcuffed for 3 to 5 hours. Essentially they were locked up without probable cause. These are civil rights violations. Additionally, Bart has stated that these young men have criminal records and thus are seemingly not entitled to constitutional protection.

Secondly, statements concerning settlement discussions regarding Oscar's child and his mother are quite surprising in that Bart and the lawyers are bound by the court rules of confidentiality. This means that offers, counter offers and discussions are confidential. These leaks seem designed to prevent settlement, embarrass the family, or perhaps to drive a wedge between the families and the community, Burris said.

The suggestion that Bart paid less than anticipated for the child is a position that is likewise quite surprising and self serving in that our stated goal was always to take care of Oscar's child. This is being done in that the child will be financially well taken care of over a number of years, Burris said. However, Wanda Johnson lost her beloved son and no amount of money can repair the hole in her heart. The release of settlement discussions about numbers is disrespectful and more importantly it is wrong. We demand that she be treated with dignity and respect just like any other mother whose child has been wrongfully killed by the police. BART's desire to cheapen that loss by tossing out money, in violation of the long standing rules on confidentiality is shameful.

As for the notion that Oscar's friends on the platform are helpful to Mesherte, this remains to be seen. The video tapes are the best evidence of Mesherte's conduct. The boys can not interpret his intent, they can only tell what they saw. Their interpretation of Mesherte's conduct is irrelevant although of course their observations are fair game. Burris says that it appears Bart is attempting to shift responsibility for Oscar's death to these young men. We categorically reject this attempt. The blame should remain exactly where it belongs, on the shoulders of Johannes Mesherte.

For further information contact Law Offices of John L. Burris (510) 839 5200

[burrisoscargrantfamilybartpressconf_020510.pdf](#)
[download PDF \(45.0 KB\)](#)

(1-page PDF)

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EXHIBIT F

<http://www.indybay.org/newsitems/2011/07/18/18685160.php>

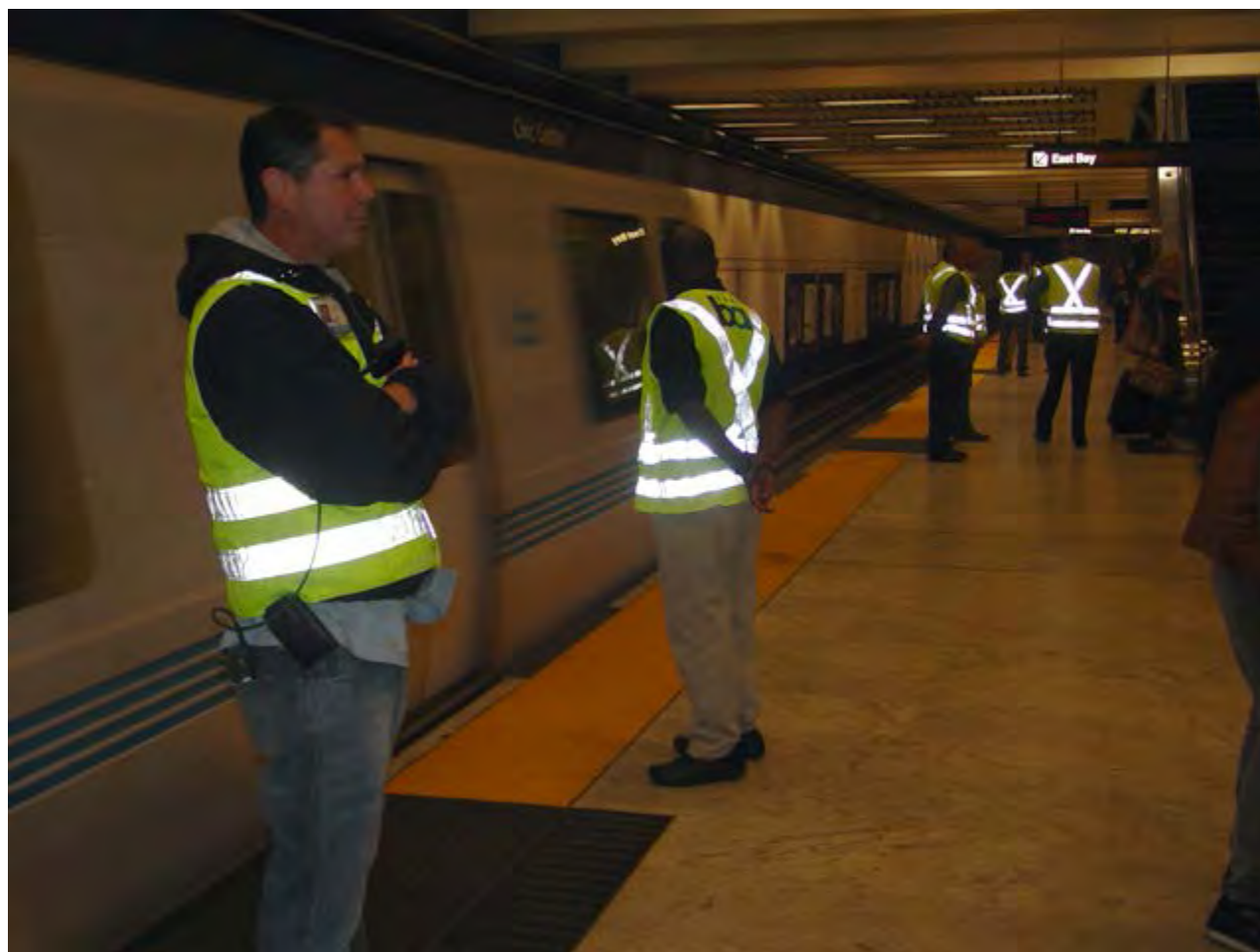
[San Francisco](#) | [Police State and Prisons](#)

Justice for Charles Hill BART Action Shuts Three Stations in San Francisco: photos, 1 of 2

by dave id

Monday Jul 18th, 2011 4:36 PM

Protesters promised to disrupt the Bay Area Rapid Transit system's business as usual to send a clear message to BART that the their police department's growing death toll is simply unacceptable. "They succeeded," BART PR spokesman Linton Johnson was forced to concede on the day of action as three of the busiest downtown San Francisco stations were forced to close and trains were disrupted for over two hours.



charleshill_bartprotest_0...

[Pictured above: BART employees called to duty as green-vested security guards for the protest stand ready, two to every train entrance, to protect against demonstrator interference. It is unknown if they were under orders to manhandle demonstrators as several of them did.]

On the evening of July 3rd, two as of yet unidentified BART police officers responded to a report of an intoxicated man who could barely stand with an open container at the Civic Center BART station in San Francisco. Less than one minute after arriving on the Civic Center platform, the BART cops, armed with pistols, at least one taser, and who knows what other weapons, shot and killed 5' 8", 150-pound Charles Hill with three rounds to his chest. While refusing to release BART's closed-circuit video of the incident and withholding numerous key details, purportedly to avoid biasing witnesses who have not yet been interviewed, BART's police chief Kenton Rainey has publicly rationalized the shooting, repeatedly defended his officers, and declared that he is "comfortable" with his officers having killed Charles Hill.

Eight days after Charles Hill was shot down in the Civic Center station, at least 150 demonstrators converged at the very same station to protest the killing, to demand that the officers be held accountable and that the entire "murderous, inept, corrupt" BART police department be shut down. Charles Hill is the third person killed by BART police in less than three years. At least three others have died at the hands of BART police prior to the recent spree.

Amongst those demanding justice in various downtown San Francisco BART stations on the day of the action were members of Oscar Grant's family and friends, two mothers of victims of Oakland and San Francisco police killings, people of faith, community groups -- including a diverse mix by race, gender, and age -- all present and supportive of the action as it was conducted. BART's PR spokesman Linton Johnson later called participants at the protest "fringe groups" despite the fact that many of the very same people BART conversely trumpets as "community members" who helped to shape their newly instituted citizen board and police auditor (both of which, in a major betrayal to those who had been involved in good faith work toward police oversight, were [made toothless in a back room deal with the statewide police lobby PORAC](#)).

Participants began to gather on the Civic Center station platform about 4:30pm. By 5pm, after a short speech about BART, BART police history, and the killing of Charles Hill, demonstrators began to march around the edges of the station platform. The action heated up quickly when protesters began to hold the doors of a train and another attempted to climb onto the top of the train. Green-vested BART employees were able to pull down the person who had climbed a train car, but were unable to forcibly dislodge protesters standing in train doorways. Within minutes, BART riot police began filling the station. Approximately a third to a half of the demonstrators rode the train eastward to the Powell station and then proceeded to hold train doors there. As Civic Center station was closed by BART, those demonstrators who had remained in the station walked to Powell. Mobile demonstrators continued to ride trains and hold doors, delaying numerous BART trains throughout downtown, from Powell Street station to 16th Street Mission station. In time, BART additionally closed the Powell station, as it overflowed with both Civic Center passengers and protesters. Not long after, 16th Street Mission station was closed as well due to ongoing disruptions by protesters. Once the 16th Street station was closed, demonstrators abandoned the BART system at 6:30pm and took over several streets in a march to the Powell Street trolley car turnaround. A massive presence by SFPD prevented the march from continuing on through the Union Square area upscale shopping district. Demonstrators dispersed on their own as planned shortly after 7pm.

It is noteworthy that while BART appears to have had virtually its entire police force on call, utilizing every last bit of riot control gear and weaponry owned by the agency, calling to duty dozens of employees and putting them in green vests downtown, coordinating with San Francisco police and sheriff's departments, BART did not in any way attempt to warn passengers of the very predictable disruptions expected or offer passengers alternate means of transportation (remember that another similar BART action was held in April 2010). No "service advisory" on their website nor announcements in any stations by 4:30pm on the day of the action. No offers of bus service around effected stations. Despite demonstrators best efforts to announce the action as widely as possible ahead of time, BART deliberately left its passengers in the dark about what to expect.

Protesters had promised to disrupt BART's business as usual. "They succeeded," Linton Johnson was forced to concede on the day of action. The very next day Linton growled back by promising "zero tolerance" for future protests, although demonstrators have declared that they remain undeterred and will persist until demands for accountability are met by the Bay Area transit agency.

For more information, see:

<http://www.oaklandforjustice.org>

<http://nojusticenobart.blogspot.com>

For background, see:

How to Slow BART Trains for Social Justice - BART Action April 8th, 2010: video

<http://www.indybay.org/newsitems/2011/07/11/18684414.php>

BART Action Disrupts Trains with "No Justice, No Rush" in San Francisco

<http://www.indybay.org/newsitems/2010/04/11/18644444.php>

Indybay Coverage of the Justice for Oscar Grant Movement

<http://www.indybay.org/oscargrant>

<http://www.indybay.org/police>

[**§Protesters, media, green vests, and bystanders on Civic Center platform**](#)

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

§Opening statements on BART, BART police, Charles Hill, and action about to commence

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>
§Marching around the edge of the station
by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

§Action heats up fast when demonstrators hold train door for several minutes

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

One demonstrator attempted to climb to the top of the train, and almost made it, but was pulled down at by his ankles by green-vested BART employees.

<http://www.indybay.org/police>

[SBART's two-start general Daniel Hartwig steps in to clear the door](#)

by dave id Monday Jul 18th, 2011 4:36 PM



charleshill_bartprotest_0...

<http://www.indybay.org/police>

§Within 15 minutes of demo starting BART, police in riot gear are on Civic Center Platform

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

Police closed and cleared Civic Center station shortly thereafter.

<http://www.indybay.org/police>

[§Chanting in Powell Street station](#)

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

§Chanting and photographing at Powell

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>
§Holding train door at Powell

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

[§Holding train door at 16th Street Mission station for almost 15 minutes](#)

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

§Displaying fliers as train is held up at 16th Street

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

§Informing passengers at 16th of reason for protest

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

§BART employee attempted to use his girth to push protesters out of doorways many times

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>
[§Here come BART riot police](#)

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

§Masked up and arms locked as police baton comes into the picture

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

§Green vests step back to make way for police to block train door

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

[§Holding train door at Powell again \(Civic Center station still closed\)](#)

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

§Phalanx of BART police assembles in Powell station

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

§Chanting at police line in Powell. This station was closed next as it filled with protesters and commuters from Civic Center.

by dave id *Monday Jul 18th, 2011 4:36 PM*



charleshill_bartprotest_0...

<http://www.indybay.org/police>

[§Photos continued](#)

by dave id *Monday Jul 18th, 2011 5:02 PM*

Justice for Charles Hill BART Action Shuts Three Stations in San Francisco: photos, 2 of 2

<http://www.indybay.org/newsitems/2011/07/18/18685184.php>

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EXHIBIT G

<http://www.indybay.org/newsitems/2011/08/12/18687533.php>

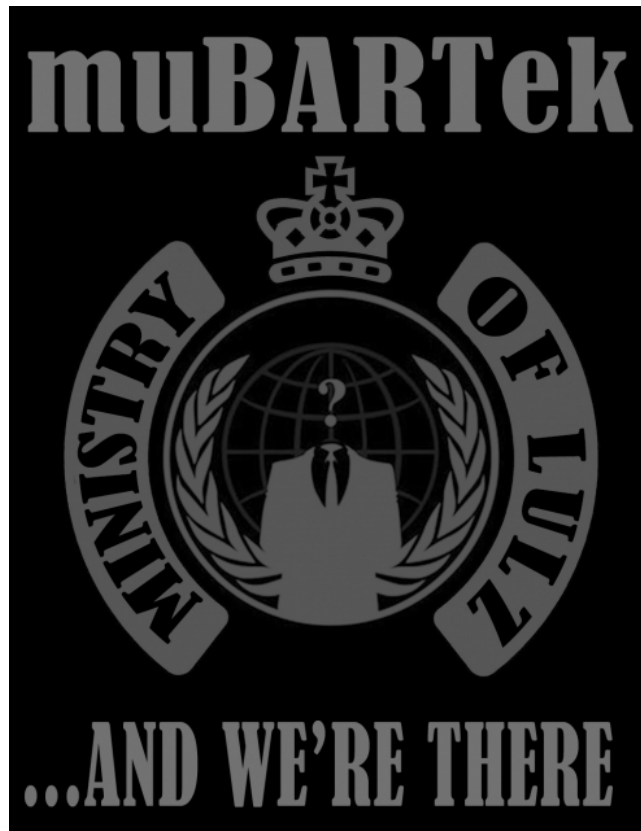
[San Francisco](#) | [Police State and Prisons](#)

BART Pulls Plug on Cell Phone Antennas - You Can Always Count on BART to Step In It

by dave id

Friday Aug 12th, 2011 11:24 PM

The San Francisco Bay Area, historic birthplace of the [Free Speech movement](#) and a pioneer in the digital age, is now apparently the first place in the United States to have had its electronic communications deliberately disabled in order to pre-empt a political protest. As an act of prior restraint against potential protester free expression, the Bay Area Rapid Transit agency cut power to the underground mobile phone antennas within the BART system for several hours on August 11th, thereby denying tens of thousands of evening commuters access to broadband internet networks, telephone service, and even 911 calls. Civil liberties organizations such as the [Electronic Frontier Foundation](#) (EFF) and the [American Civil Liberties Union](#) (ACLU), as well as the hacktivist group known as [Anonymous](#), are now vociferously objecting. Without even realizing how premature it was to smirk and brag to the corporate media about having disabled the antennas after service was cut, BART appears to have stepped in another big pile of shit as it so often tends to do. Besides the public shaming it is now receiving across the internet in an ever-growing number of articles and op-eds, FCC, legal, and hacktivist repercussions for the agency may be yet to come. The protest BART hyperventilated about never even happened.



[640 mubartek-andwearether...](#)
[original image \(1026x1323\)](#)

[muBARTek graphic above by LulzSec draws a parallel between the anti-free speech actions of former Egyptian dictator Hosni Mubarek and BART, warning the transit agency of upcoming hacktivist retaliation via Anonymous' new OpBART campaign]

At first, when called out on the phone service shutdown last night, BART police Lt. Andy Alkire bragged that disabling the antennas was "a great tool to utilize for this specific purpose." BART PR spokesperson Linton Johnson was seen smirking about the service cut on television newscasts (when he wasn't trying to shift responsibility for the decision out of his press department). Today however, from the [New York Times](#) to [CNET](#) to [Fox News](#) to [Al Jazeera](#), the internet is flooded with hundreds of stories about the apparent first-ever anti-protest disabling of cell phone antennas in America — and it's not likely BART officials think their decision to disable the phone antennas is so cute and funny any more. [BART board members](#) have yet to make a public statement regarding the matter.

Not surprisingly — to anyone who has followed BART's record of police violence, cover-ups, and evolving stories over time — the agency has lied repeated about having cut power to the communications antennas to which they have access. A [BART official first denied](#) that the agency had even disabled mobile

phone service. Later, regarding whom at the agency ordered the service shutdown, Lt. Andy Alkire told a TV news station that the decision came from the media relations department. Linton Johnson attempted to deny knowledge of where the decision came from, but then admitted that his department "suggested" it when confronted with Alkire's statement. This morning, BART followed up by releasing a written statement claiming that it had asked mobile phone carriers to cut service for them. BART's deputy chief communications officer James Allison then fessed up that "[BART staff or contractors shut down power to the nodes](#)," adding that BART notified cell carriers after the action was taken. A spokesperson for Sprint, however, said that Sprint "[learned about the service disruption from the news](#)."

BART continues to insist, as reported in AP wire stories, that only [four stations](#) in downtown San Francisco had their service disabled (Embarcadero, Montgomery, Powell, Civic Center), but service was also notably down at 16th Street Mission station in San Francisco and downtown Oakland underground stations. It has not yet been confirmed if antennas were disabled in other underground stations throughout the entire BART district.

BART's spin machine has attempted to flip onto protesters complaints expressed about decisions BART made during the [July 11th Justice for Charles Hill action](#) in downtown San Francisco stations — namely that BART ran trains through crowded stations at [dangerously high speeds during the demonstration](#) — in order to justify their own disabling of the antennas, by first claiming in an advisory about a potential August 11th protest that their [primary motivation was safety](#) and, in another release the following day, that demonstrators would create "[unsafe conditions](#)." In an attempt to create an atmosphere of fear and danger around BART protests, Linton Johnson encouraged the public to "Report unsafe behavior, do not confront protesters. [Stay out of harm's way](#)." Of course, protesters at BART actions have never hurt anyone, emphasizing through repeated exhortations that demonstrators not even "[deny passengers egress from trains or station](#)," yet BART police continue to [beat and kill passengers](#).

And so it appears BART's primary rationalization for their action rests on their disingenuous claim to have been acting on behalf of passenger safety, rather than [to block the content of a protest](#) which would be more problematic legally. Trying to personalize the sense of sheer terror demonstrators create, BART police deputy chief Benson Fairrow played his role by telling the media, "It was a recipe for disaster.... The fact that they started to conspire to commit illegal actions on the station platform was our concern. I asked myself: [If my wife, mother or daughter was on that platform](#), would I want them to be in that situation?" In another news outlet, Fairrow made use of his family in a more gruesome manner: "would I want [my wife or daughter to get kicked \(onto BART tracks\)](#) in a protest that we could have avoided?" It is unclear how protesters with working mobile phones would be more likely to cause his wife to be shoved onto train tracks than protesters without phones. Yet still, on the basis of this anecdotal fear factor BART would have us believe the decision to cut mobile phone service throughout the system was made, a supposedly sensible trade-off between very real speech and very imaginary harm to passengers.

Senior staff attorney at the Electronic Frontier Foundation [Kevin Bankston](#) confronts another excuse that BART seems to feel removes itself from culpability for the deliberate service disruption. "BART makes the point that a few years ago you couldn't even use your cell phone in the BART stations, but that's beside the point. At this point, they have made a policy of allowing it on the platform. To withdraw that ability to express yourself ... under [a desire to prevent particular political speech between protesters](#) was a shocking disregard of the free speech rights of every BART passenger and indeed, was a prior restraint on any expressive activity they would otherwise have engaged in."

Additionally, Bankston points out other First Amendment implications of BART's decision to disrupt phone service. Given that BART claimed that the cell phone shutdown was initiated because "organizers... stated they would use mobile devices to coordinate their disruptive activities and communicate about the location and number of BART Police," Bankston says the public should be concerned because "it was [targeted specifically at blocking one type of speech](#).... In lawyer-speak, it's not content neutral."

The [EFF](#) as an organization issued a statement today, writing plainly that "cutting off cell phone service in response to a planned protest is a shameful attack on free speech. BART officials are showing themselves to be of a mind with the former president of Egypt, Hosni Mubarak, who ordered the shutdown of cell phone service in Tahrir Square in response to peaceful, democratic protests earlier this year. Free speech advocates have called out British Prime Minister David Cameron for considering new, broad censorship powers over social networks and mobile communication in the UK, and we are appalled to see measures that go beyond anything Cameron has proposed being used here in the United States. Cell phone service has not always been available in BART stations. The advent of reliable service inside of stations is relatively recent. But once BART made the service available, cutting it off in order to prevent the organization of a protest constitutes prior restraint on the free speech rights of every person in the station, whether they're a protestor or a commuter. Freedom of expression is a fundamental human right. Censorship is not okay in Tahrir Square or Trafalgar Square, and it's still not okay in Powell Street Station."

The [ACLU of Northern California](#) likewise declared that "we rightly criticize governments that respond by shutting down cell service, saying it's anti democratic and a violation of the right to free expression and assembly. Are we really willing to tolerate the same silencing of protest here in the United States? ... Shutting down access to mobile phones is the wrong response to political protests, whether it's halfway around the world or right here in San Francisco. You have the right to speak out. Both the California Constitution and the First Amendment to the United States Constitution protect your right to free expression."

Despite BART's bragging and self-congratulation immediately after the fact, their tuned changed as BART learned that civil libertarians were objecting to their decision to pull the plug on underground mobile phone antennas. [BART released the following statement](#) this morning:

08.12.2011

Statement on temporary wireless service interruption in select BART stations on Aug. 11

Organizers planning to disrupt BART service on August 11, 2011 stated they would use mobile devices to coordinate their disruptive activities and communicate about the location and number of BART Police. A civil disturbance during commute times at busy downtown San Francisco stations could lead to platform overcrowding and unsafe conditions for BART customers, employees and demonstrators. BART temporarily interrupted service at select BART stations as one of many tactics to ensure the safety of everyone on the platform.

Cell phone service was not interrupted outside BART stations. In addition, numerous BART Police officers and other BART personnel with radios were present during the planned protest, and train intercoms and white courtesy telephones remained available for customers seeking assistance or reporting suspicious activity.

BART's primary purpose is to provide, safe, secure, efficient, reliable, and clean transportation services. BART accommodates expressive activities that are constitutionally protected by the First Amendment to the United States Constitution and the Liberty of Speech Clause of the California Constitution (expressive activity), and has made available certain areas of its property for expressive activity.

Paid areas of BART stations are reserved for ticketed passengers who are boarding, exiting or waiting for BART cars and trains, or for authorized BART personnel. No person shall conduct or participate in assemblies or demonstrations or engage in other expressive activities in the paid areas of BART stations, including BART cars and trains and BART station platforms.

Updated: August 12, 2011 1:08 pm

Note that BART's original version of this statement, before the update, claimed that "BART asked wireless providers to temporarily interrupt service at select BART stations," not that "BART temporarily interrupted service at select BART stations" as it reads now. Official statements posted on their own website are no more likely to be true than off-the-cuff remarks made to the media by defensive agency representatives. As for when exactly "certain areas" were made available for protesters is an open question. And never mind that BART is a public agency authorized by the State of California or that courts have ruled that even private property such as shopping malls can be considered public for the purposes of allowing political free speech and may not prohibit certain types of speech based upon its content.

BART hit the [panic button](#) on this one. [They literally pulled a Mubarak](#). So desperate to avoid further publicity regarding its violent and unaccountable police force, and determined *not* to be pressured by demonstrators into taking any disciplinary action against any of its own, BART took the unprecedented and historic step of being the first in the nation to disable mobile phone service for tens of thousands of people based on "[rumors](#)" of an impending protest. Although, of course, even on that point, BART can't seem to get its story straight. Lt. Andy Alkire said, "We had [pretty good intelligence](#) that (a protest) was going to happen." Deputy Chief Benson Fairrow, who eventually took credit for owning the decision to cut phone service, stretched it even further by claiming that "[I am 99% certain](#) (the protest) was going to happen. We saw people who were clearly ready to take action, with backpacks and tools." They saw people with backpacks on trains? Scary. What tools? This reporter toured through the system at the time, and the only thing witnessed even close to anyone possessing "tools" was some unsuspecting male passenger being hauled off of a train at Civic Center station by a gang of riot police because some green-vested BART employee who had been called to duty for protest surveillance thought the audio turntable parts in an open bag the man was carrying seemed suspicious. If anyone was present expecting a protest, it was simply due to the media hype BART had stirred up.

BART lies and lies, and only admits to the truth when it is forced to by undeniable evidence. Even then, it fails to hold the bad actors in its midst accountable. The more you know about the agency, the more this pattern reveals itself. Whether and when the agency or any individuals within it will be taken to task for the misdeeds and lies of its officials and police officers remains to be seen, but you can continue to expect that BART will do everything in its power to avoid doing the right thing the first time.

To let BART know how you feel about the lack of accountability within their police department or the agency's attempted silencing of dissent, see <http://bart.gov/siteinfo/contact.aspx>. You can also confront the BART board of directors in person at their [bi-weekly board meetings](#) — the next one is scheduled for Thursday, August 25th.

[If you find yourself unable to get enough of BART's PR machine, you can always visit BART-TV for this gem about the events of August 11th: <http://www.youtube.com/watch?v=HsKEvd6gH0A>. Apparently, BART has come to believe that they can no longer trust the corporate media to 100% get their message out — 98% is just not enough. And since BART steps in it as often as they do, perhaps the agency does need its own propoganda channel to encourage hate for protesters.]

<http://indybay.org/oscargrant>

[UPDATE 8/13: BART Director Says Cell Phone Shutdown Didn't Go Through Proper Channels](#)

by dave id *Saturday Aug 13th, 2011 3:59 PM*

Bay Citizen has gotten a hold of BART Directors Lynette Sweet and Tom Radulovich. Both weighed in on the controversy. Radulovich played into the safety rationalization of BART PD and PR, that cutting mobile service somehow prevents people from being pushed onto the train tracks. Sweet seems adamantly opposed, and [contradicts statements by BART police deputy chief Fairrow](#) that "It was certainly run through through channels. A lot of thought went into this."

A BART director said Saturday that the controversial decision to shut down cell phone service to thwart a planned protest did not go through the proper channels at BART.

Lynette Sweet said that BART's Chief of Police, Kenton Rainey, briefed the Board of Directors Thursday before the demonstration was scheduled to begin. But the tactic -- which has drawn unfavorable comparisons to the repressive Mubarak regime in Egypt -- was presented as a "fait accompli," she said.

"I was offended that something this large -- and I don't think staff understood how large this was -- wasn't brought to us for discussion," said Sweet. "We're the policymakers."

Sweet said the BART board would investigate the incident — and hold discussions about the transit agencies policy on shutting down cell service.

"This is a transit agency, and our job is not to censor people," said Sweet.

...

Another BART director, Tom Radulovich, told The Bay Citizen Friday that he had mixed feelings about the decision to turn off the cell service.

"My gut tells me there's something wrong with it," Radulovich said. "But I also understand the fear about protests around trains. It puts themselves and other people in danger -- it's very easy for someone to get pushed onto the tracks."

read more:

<http://www.baycitizen.org/bart-police-shooting/story/bart-director-cell-phone-shutdown-didnt/>

The Washington Post has their second or third piece on the incident and also spoke with Director Sweet:

Two days later, the move had civil rights and legal experts questioning the agency's move, and drew backlash from one transit board member who was taken aback by the decision.

"I'm just shocked that they didn't think about the implications of this. We really don't have the right to be this type of censor," said Lynette Sweet, who serves on BART's board of directors. "In my opinion, we've let the actions of a few people affect everybody. And that's not fair."

...

In the San Francisco instance, Sweet said BART board members were told by the agency of its decision during the closed portion of its meeting Thursday afternoon, less than three hours before the protest was scheduled to start.

"It was almost like an afterthought," Sweet told The Associated Press. "This is a land of free speech and for us to think we can do that shows we've grown well beyond the business of what we're supposed to be doing and that's providing transportation. Not censorship."

read more:

http://www.washingtonpost.com/national/sf-transit-agencys-cell-phone-shutdown-shielding-commuters-or-hints-of-orwell/2011/08/13/gIQAjqbfDJ_story.html

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EXHIBIT H

<http://www.indybay.org/newsitems/2011/08/23/18688466.php>

[San Francisco](#) | [Police State and Prisons](#)

BART Hates Free Speech, Anonymous #OpBART Protest, Civic Center station, 8/22/11: video

by dave id

Tuesday Aug 23rd, 2011 3:17 AM

In justification of BART's shutdown of mobile phone service on August 11th, the [agency began to disingenuously claim](#) that demonstrations against BART's police brutality were a threat to passenger safety, even though no one has ever been hurt during a BART protest. On August 22nd, at the second demonstration called by Anonymous, BART took this safety rationale to new heights, not only claiming that holding a banner was safety concern but additionally that even raising one's voice was an arrestable threat to safety. Apparently, any criticism of the agency within the BART system is now a safety issue, or at least BART believes that legal rationale relieves them of all obligations toward respecting Constitutionally-protected free speech.



anonymous_barthatesfreesp...

In the video below, BART officer J. Conneely from the BART police department's "Tactical Team" steps up to three demonstrators holding a blue banner, starts to grab it, and tells them that they are subject to arrest for displaying the banner. "You are free to express yourself upstairs. It's a safety issue. You are not allowed to do that down here," he says. Conneely refuses to explain how the banner is a safety issue.

Within another couple of minutes, Conneely tells a demonstrator who is discussing the BART police killing of Charles Hill on July 3rd that she has to "keep [her] voice down... for safety reasons," and that by speaking loudly she is subject to arrest. Picking up on this strange BART police declaration, another protester announces that "if we raise our voices, we will be arrested." That demonstrator then leads a chant of "No justice, no peace, disband the BART police," and is

promptly surrounded by BART riot police who proceed to physically remove him from the station for arrest. (Reports are that those arrested within Civic Center station have been charged with trespassing. Go figure.)

It is clear that BART's policy against "expression" within stations is not content-neutral. Four people were arrested in the Civic Center station on August 22nd for speaking out against the BART police, but a passenger who was yelling at protesters was not arrested nor even confronted by BART police, allowed to rant at length. And somehow a political banner has been determined by the agency to be a safety issue, yet BART stations are filled with commercial advertisements, across the walls and sometimes even on station floors and stairs.

BART refuses to hold its police accountable when they [beat](#) or [kill](#) passengers, and now the agency appears to be at wits end on how to deal with Bay Area community members that won't shut up about it. Being a public transportation system, BART simply cannot stop in-station protests, short of declaring itself an independent country and implementing martial law. And so the agency is grasping at straws, setting new Constitutionally-dubious precedents in its attempts to stifle free speech, from pulling the plug on mobile phone antennas to declaring that raising one's voice on a platform (if the speech is critical of BART) is an arrestable offense. The problem with BART's new approach is that as it futilely tries to ward off public criticism of its violent and unaccountable police force, and the managers and executives that look the other way or help to cover it up, BART has brought upon itself a wave of new critics, from civil libertarians to Anonymous, people who have never protested BART before yet are more than willing to join in the fight for civil rights in the battle against BART.

BART arrests protesters for speaking out

<http://www.sfbg.com/politics/2011/08/22/bart-arrests-protesters-speaking-out>

For more information:

<http://www.indybay.org/newsitems/2011/08/1...>

[§Video of the first arrest inside the Civic Center BART station in San Francisco](#)

by dave id Tuesday Aug 23rd, 2011 3:18 AM



Copy the following to embed the movie into another web page:

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<object type="application/x-shockwave-flash" width="480" height="360" data="http://www.indybay.org/js/flowplayer/FlowPlayer.swf"> <param name="movie">
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[download video:](#)



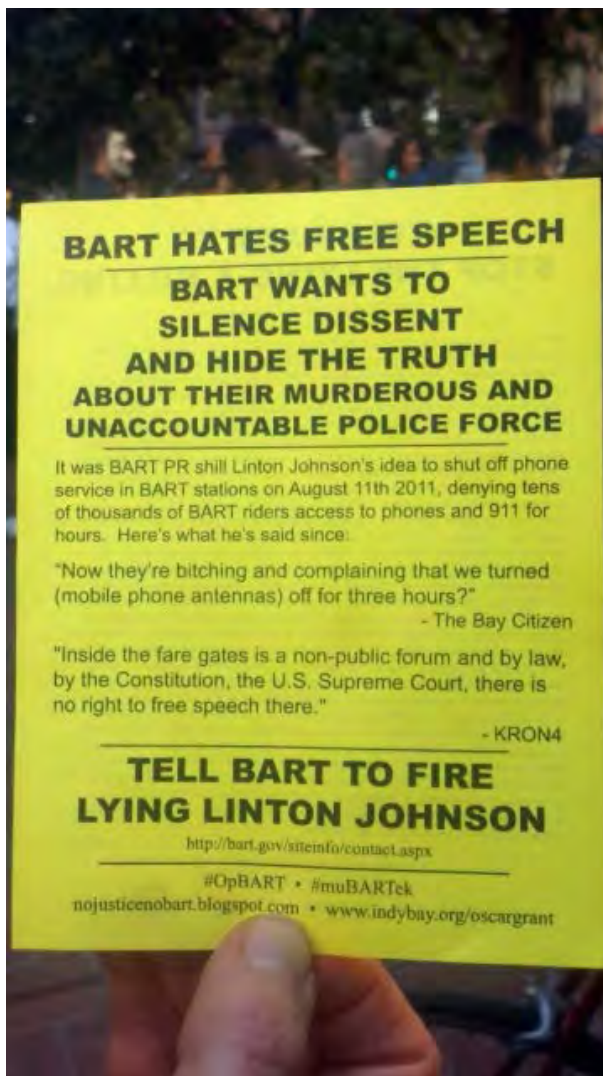
[anonymous_barthatesfreespeech_082211.mp4](#)
(28.2MB)

(video 4:45)

<http://www.indybay.org/newsitems/2011/08/1...>

§BART Hates Free Speech flier, from August 15th Anonymous demonstration in SF

by dave id Tuesday Aug 23rd, 2011 3:18 AM



640_anonymous-bart-august...

Photo taken from <http://www.indybay.org/newsitems/2011/08/15/18687751.php#18687804>.

<http://www.indybay.org/newsitems/2011/08/1...>

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<http://www.indybay.org/newsitems/2011/08/26/18688823.php>

[East Bay](#) | [Police State and Prisons](#)

The Real Safety Threat? BART Encouraging Violence Against Protesters

by dave id

Friday Aug 26th, 2011 4:03 PM

After trying to pump up passenger anger against demonstrators since the non-protest on August 11th, such as in the BART-TV propoganda video here, veiled threats against protesters are now coming directly from BART. BART is apparently not only issuing the usual PR statements on its own behalf and/or vilifying nonviolent protesters, but the agency seems to have taken on a new role as the voice of the potentially violent counter-demonstrator as well, masked by a layer of faux concern for protester well being. "I worry somewhat about the protesters, because some people are pretty upset," BART deputy police chief Ben Fairrow said Thursday. "[We can't control what they do.](#)" That's incredibly ironic and hypocritical of BART considering that the BART PR spokesperson Linton Johnson declared "[zero tolerance](#)" for nonviolent in-station protests in July, that BART has [played the "passenger safety" card to the hilt](#) in an effort to legally rationalize their shutdown of mobile phone antennas on August 11th, and that BART riot police [arrested demonstrators for merely raising their voices](#) on August 22nd.



[download video:](#)



[bart propoganda video- customers react to protest plans- aug 12 2011.mp4 \(14.5MB\)](#)

Copy the following to embed the movie into another web page:

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<object type="application/x-shockwave-flash" width="480" height="360" data="http://www.indybay.org/js/flowplayer/FlowPlayer.swf"> <param name="movie"
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[BART propoganda video featuring KRON4 reporter Mark Jones originally posted at <http://www.youtube.com/watch?v=HsKEvd6gH0A>.]

So, BART claims they "can't control" what violent people do in their stations. Is that really the message the

agency really wants to be sending out to the riding public? How about Charles Hill and Oscar Grant? Neither was a real threat to anyone but both were shot dead by BART police. And what about the dozens of riot police BART has been filling their stations with since August 11th? According to deputy chief Fairow, they are powerless to stop violently pugnacious people.

Yet BART certainly seems determined to prove that they have absolute control over demonstrators. Their riot police have proven their eagerness to arrest people who dare to speak their minds about BART police brutality. Is this the only reason BART has a "Tactical Team," to silence dissent? [BART had no problem with a passenger yelling at protesters](#) on the Civic Center platform on August 22nd.

Why would the agency issue veiled threats to the media of impending, unstoppable beatings of BART critics by unstable or deranged passengers? It's becoming apparent that BART and its police not only approve of physical assaults against demonstrators but the agency is actively using the media to carry the message to the potentially violent authoritarians amongst us that BART has little interest in stopping them and most likely will continue to look the other way -- while their police instead busy themselves dragging away anyone who dares to chant "no justice, no peace, disband the BART police" inside a train station.

Linton Johnson bemoaned "cyber thugs" after the hacking of two BART websites, and his fellow BART spokesperson Jim Allison more recently [condemned the release of lewd digital photographs](#) that Linton Johnson himself had irresponsibly posted online on Facebook and other public websites (irresponsible, considering his high-profile profession as BART's mouthpiece), but "[muBARTek](#)" appears to be informally ginning up its own cadre of real life thugs to rush into the square (er, platform) on BART's behalf, to do its dirty work. Hey, there's just nothing they can do to stop real violence, even in the presence of dozens of riot-clad BART police.

BART would also have us believe that it's completely safe and appropriate to [lock hundreds of passengers within an underground BART station](#) with no notice in the middle of earthquake country, lest leafleters be able to destroy the minds of passengers by handing out fliers critical of Bay Area Rapid Transit's [inept, reckless, and corrupt](#) police force. But stopping an actual assault or holding a known attacker accountable? Out of the question.

Remember all this next time you hear BART officials attempting to justify their anti-free speech or anti-protest behavior on the disingenuous premise of the agency caring oh so deeply about "[passenger safety](#)."

SFPD and the corporate media are likewise beating the drum of "passenger backlash". San Francisco Police Chief Greg Suhr: "I don't want this to be construed as delivering a threat, but enough is enough. They made their point, and they are now losing in the court of public opinion."

Note that the SFPD didn't bother to arrest a person who physically battered protesters on August 22nd.

As reported by Bay Citizen, "One commuter turned violent later in the evening, [rushing into the crowd of protesters at Civic Center, swinging his fists](#).... He was briefly detained by police, but let go when no one who'd been struck came forward."

If no victim came forward after the August 22nd assault, then presumably SFPD must have seen the incident themselves since they knew who it was and were able to detain the assailant. If they didn't see it themselves, then there must have been citizen bystander who made SPDF aware of the incident, meaning there was at least one witness to the assault. And yet they let this truly violent person go. Do you think if a protester had punched even a single passenger, with or without a victim to testify, that SFPD (or BART PD) would not have pursued every charge at their disposal against that violent protester?

The day after the protest, SFPD released the names of everyone arrested on a Grove Street sidewalk on August 22nd. Never mind the fierce police reaction to the [release of BART police officer information](#) by a hacker. And never mind that many if not most of those surrounded on the sidewalk had been following the street march on the sidewalk the entire time or that there were [women who were rushed by police on the sidewalk and beaten with batons](#).

As for the presumption of innocence, never mind that as well. Odds are that most if not all of the corporate media outlets that published the list of arrestees and their home towns for all the world to see, as if those arrested had already been proven guilty of some horrible crime against humanity, those same corporate outlets will do no follow-up reports after this coming Monday's arraignments on who amongst those arrested will be facing charges moving forward and who exactly had their charges completely dropped. The smear is already in on every last one of them. Job done.

For more information:

<http://www.indybay.org/newsitems/2011/08/1...>

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