



National Press Photographers Association, Inc.

The Society of Visual Journalists

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VIA EMAIL

January 18, 2012

John J. Matheussen, CEO
Delaware River Port Authority
President – Port Authority Transit Corporation
PO Box 1949
Camden, NJ 08101-1949

Re: PATCO Webpage

Dear President & CEO Matheussen,

I am in receipt of your reply dated 1/11/12. On behalf of NPPA, I greatly appreciate your timely removal of the offending language from the PATCO website and your consideration regarding future policy postings related to photography, filming and video. I am however concerned about follow-up statements made by DRPA spokesperson, Tim Ireland, in Phillymag.com. He said that “amateur photographers and members of the general public may be stopped and asked who they are, what they’re doing and why they’re doing it.” While NPPA generally represents news photographers and visual journalists I find it very troubling that PATCO still maintains the misguided belief that someone doing nothing more than taking a few innocuous photos, in the exercise of their First Amendment rights, may be stopped and questioned.

We once again assert that photography by itself is not a suspicious activity and should not be considered as such absent articulable facts and circumstances that support the suspicion that the behavior observed is not innocent, but rather reasonably indicative of criminal activity associated with terrorism or other crimes. Your assertions to the contrary wrongly encourage your employees and police officers to question, detain and interfere with lawful behavior by photographers.

In *Glik v Cunniff*, 655 F.3d 78 (1st Cir. 2011) the U.S. Court of Appeals found that First Amendment protections applied to both the press and the public, stating that “the public’s right of access to information is coextensive with that of the press . . . images of current events come from bystanders with a ready cell phone or digital camera rather than a traditional film crew, and news stories are now just as likely to be broken by a blogger at her computer as a reporter at a major newspaper. Such developments make clear why the news-gathering protections of the First Amendment cannot turn on professional credentials or status.”

Additionally, I have received numerous reports since this matter was first made public relating stories of interference by PATCO personnel with both news photographers and the public at large who were doing nothing more than taking a few photos. I once again urge you to make clear in any subsequent policy posting that photography is permitted on all PATCO property open to passengers and that photography of PATCO equipment and property is also permitted by anyone standing on public property.

Finally, without looking further into the rulesmaking process in New Jersey, I hope that any new rules which PATCO intends to promulgate are done with proper notice and an opportunity to be heard. Please let me know if NPPA may be of assistance in developing appropriate new rules, guidelines, policies and training.

Thank you for your attention in this matter. I look forward to your response.

Very truly yours,

Mickey H. Osterreicher

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General Counsel
National Press Photographers Association

cc: Sean Elliot, NPPA President (via email)
Ed Barocas, Legal Director, ACLU of New Jersey (via email)