

BART admits halting cell service to stop protests

Michael Cabanatuan : 6-7 minutes : 8/12/2011

BART police officers were out in force to prevent any disruptions from a protest sponsored by the "No Justice, No BART" group. The protest did not materialize during the evening commute, on Thursday August 12, 2011. The protest was to be in response to the officer-involved shooting in July, 2011. Michael Macor/The Chronicle

Oakland --

BART's shut-off of subterranean cell phone service in its downtown San Francisco stations may have prevented a protest Thursday, but it sparked accusations Friday that the action stifled free speech and smacked of the kind of government intrusion employed by Middle East dictators.

"All over the world, people are using mobile devices to protest oppressive regimes, and governments are shutting down cell phone towers and the Internet to stop them," said [Michael Risher](#), a staff attorney for the [American Civil Liberties Union of Northern California](#). "It's outrageous that in San Francisco, BART is doing the same thing."

Article continues below this ad

BART officials acknowledged Friday afternoon that they had switched off the transit system's underground cell phone network, which runs from Balboa [Park Station](#) through the Transbay Tube, from 4 to 7 p.m. Thursday to prevent protesters from coordinating plans to stop trains.

A cluster of groups under the "No Justice, No BART" banner said on websites that they planned to protest the fatal July 3 shooting of a knife-wielding man, [Charles Blair Hill](#), by BART police. Protesters briefly shut down the [Civic Center](#), Powell Street and 16th Street Mission stations July 11. Trains ran through the stations without stopping.

More For You

"Organizers planning to disrupt BART service stated they would use mobile devices to coordinate their disruptive activities and communicate about the location and number of BART Police," the transit agency said. "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."

Article continues below this ad

A 'recipe for disaster'

Contrary to some speculative reports, BART did not jam wireless signals or ask cell phone

providers to shut down towers near stations. BART owns and controls the wireless network strung through its subways, and BART police ordered it switched off, after receiving permission from BART interim General Manager [Sherwood Wakeman](#), former general counsel for the transit district.

Benson Fairow, BART's deputy police chief, said he decided to switch off the service out of concern that protesters on station platforms could clash with commuters, create panicked surges of passengers, and put themselves or others in the way of speeding trains or the high-voltage third rails.

"It was a recipe for disaster," he said. "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?"

Article continues below this ad

Civil libertarians questioned the constitutionality of BART's decision and predicted legal action, or at least serious investigation by the [Federal Communications Commission](#).

"The most pertinent right in question is the right to free expression," said [Kevin Bankston](#), senior staff attorney for the [Electronic Frontier Foundation](#), a digital rights advocacy group. "BART makes the point that a few years ago you couldn't even use your cell phone in the 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."

Question of control

While BART owns and controls the wireless network in its tunnels, it might not have the right to shut it off to halt a protest, [ACLU's](#) Risher said.

Article continues below this ad

"Once BART opens a forum for expression, their authority to close it down becomes a little more limited," he said. "As far as I know, no governmental entity in this country has ever done anything like this."

BART spokesman [Jim Allison](#) said this was the first time the transit agency shut down the underground wireless system because of public safety concerns.

Fairow said that BART considered the free speech implications posed by the cell phone shutdown but decided that those rights were outweighed by the need to protect the public.

"It's the constant juggle," he said. "The courts have ruled that some inconvenience is OK (to protect free speech) but the courts have also ruled that public safety takes priority."

Article continues below this ad

BART allows free speech - from protesting to proselytizing - outside the paid areas of stations. But it's not suitable inside the fare gates, and especially on the train platforms, he said.

But even some BART riders thought the tactic seemed very un-Bay Area.

"We don't want the government turning off cell phones in Syria, and we don't want them turning off cell phones here," said [Patricia Shean](#), 72, of San Francisco. "We deal with things differently here."

Aug 12, 2011

Michael Cabanatuan is a general assignment and breaking news reporter who's covered everything from wildfires and sports fans to protests and COVID masking requirements. He's also written extensively about transportation and covered Contra Costa County for The Chronicle. He's ridden high-speed trains in Japan, walked in the Transbay Tube, been tear-gassed in Oakland and exposed to nude protesters in the Castro. Cabanatuan worked at the Paradise Post (long before anyone heard of the town), the former West County Times (in Richmond) and the Modesto Bee before joining The Chronicle. He is a two-time graduate of UC Berkeley.