



NYCLU

NEW YORK CIVIL LIBERTIES UNION

125 Broad Street
New York, NY 10004
(212) 344-3005
Fax (212) 344-3318
www.nyclu.org

Christopher Dunn
Associate Legal Director
(212) 344-3005, ext. 226
cdunn@nyclu.org

BY FACSIMILE AND FIRST CLASS MAIL

March 10, 2006

Mary Mahon, Esq.
Vice President and General Counsel
Long Island Railroad
Jamaica Station, N.Y. 11435

Re: Photography on Long Island Railroad

Dear Ms. Mahon:

On behalf of the New York Civil Liberties Union, I write to request that the Long Island Railroad take immediate steps to remedy the LIRR's unconstitutional treatment of law-abiding photographers. Though I would have preferred first to have spoken with you, I have not heard back from you since I left you a message this morning and thus write.

In the last several weeks, the NYCLU has received a number of reports about people being told by LIRR police officers that they are not permitted to take photographs of trains or train stations. Officers have gone so far as to threaten photographers with arrest.

In several instances photographers then contacted LIRR officials seeking information about restrictions on photography. In response, LIRR officials have asserted that photographers must obtain advance permission from the LIRR before taking pictures and must have substantial insurance.

As far as we can determine, the LIRR has no rules or regulations prohibiting photography nor any rules or regulations establishing a permit scheme or any insurance requirements. Given that photography of public areas is protected by the First Amendment, we believe the LIRR's actions are plainly unconstitutional. And we are particularly surprised by those actions, given the MTA's decision last year, following substantial public controversy, to abandon its proposal to ban photography in the New York City subway system.

We therefore ask that the LIRR immediately issue a directive to all appropriate personnel making clear that the mere act of taking pictures or video is not unlawful and provides no basis for taking law-enforcement action against a photographer. To the extent the LIRR wishes to

regulate certain aspects of photography (for instance, the use of bulky equipment) or wishes to enforce other restrictions that apply generally to conduct (for instance, prohibitions on blocking public areas), it of course remains free to do so within reason. Similarly, it may investigate activity it reasonably deems to be suspicious.

I would appreciate hearing back from you promptly. If the LIRR is not willing to take immediate steps to address this situation, we are prepared to file suit.

Sincerely,

A handwritten signature in black ink that reads "Chris Dunn" with a long horizontal flourish extending to the right.

Christopher Dunn

✓ c: Martin Schnabel, General Counsel, Metropolitan Transportation Authority

347 Madison Avenue
New York, NY 10017-3739
212 878-7172 Tel
212 878-4624 Fax

Catherine A. Rinaldi
Deputy Executive Director
General Counsel



Metropolitan Transportation Authority

State of New York

March 13, 2006

Christopher Dunn
Associate Legal Director
NYCLU
125 Broad Street
New York, NY 10004

Re: Photography on Long Island Rail Road

Dear Mr. Dunn:

I am in receipt of your letter to Long Island Rail Road ("LIRR") General Counsel Mary Mahon, dated March 10, 2006, with respect to the issue of photography within the LIRR system. As you indicate in your letter, the LIRR has no rules prohibiting photography of LIRR trains or at LIRR stations. Metro-North similarly has no rules prohibiting photography of its facilities. After reviewing your letter, I spoke to MTA Police Chief Kevin McConville about this issue. According to Chief McConville, the MTA Police's position is that officers should be concerned only if individuals seeking to take photographs are trespassing on railroad property not otherwise open to the public or are endangering themselves (as, for example, stepping onto active railroad tracks). However, in response to the concerns raised in your letter, he indicated that he will immediately be reminding his command staff that there is no photography ban in the LIRR system and will be asking commanders to instruct their officers accordingly.

For your information, in both the Metro-North and the LIRR systems, there is a permit requirement for commercial photography shoots, which may require the installation of lighting equipment and which need to be coordinated with the rush hour train schedule. By and large, however, except as noted above, there is no ban on individuals taking photographs in either system. I am hopeful that Chief McConville's instructions to MTA Police officers on this subject will address the concerns that you raise in your letter. If that proves not to be the case, however, please feel free to contact me so that we can ensure that this issue is resolved expeditiously.

Very truly yours,

Catherine A. Rinaldi
Deputy Executive Director/General Counsel

The agencies of the MTA, Peter S. Kalikow, Chairman

MTA New York City Transit
MTA Long Island Rail Road

MTA Long Island Bus
MTA Metro-North Railroad

MTA Bridges and Tunnels
MTA Port Authority

cc.: Katherine N. Lapp
Mary Mahon
Richard Bernard
Chief Kevin McConville