

BAGGAGE SEARCHES on the T are UNCONSTITUTIONAL

WHAT THE MBTA IS DOING: The MBTA announced that it is developing a search policy that will involve checks of passengers' bags on subway and commuter trains on a "random basis" (for example, every 8th person). No one wants to see an act of terrorism on the T, but random searches will not increase our safety. Instead, the T will illegally violate the privacy of innocent travelers.

UNDER THE LAW the police cannot search you or your belongings unless they have at least a "reasonable suspicion" that you might be engaged in criminal activity. Under certain limited circumstances the police can set up checkpoints to prevent specific harm. If we had checkpoints at every public facility we would be living in a police state. The National Lawyers Guild believes that it is unconstitutional to set up checkpoints at locations people use every day such as subways and trains.

WHAT YOU NEED TO KNOW: The Fourth Amendment protects us against unreasonable searches and seizures. The courts have interpreted the Fourth Amendment to mean that if the police have reasonable suspicion that you are involved in a crime:

- The police CAN ask you to identify yourself and do a pat down for weapons (often called a "stop & frisk").
- The police CANNOT stop you because of your race, ethnicity, or religion.
- The police CANNOT go through your wallet, ask for immigration papers, or check on the books and newspapers you read.

WHAT WILL HAPPEN: If you are selected for a baggage search, you have the right to tell the MBTA police that you don't agree to be searched. **YOU DO NOT HAVE TO CONSENT TO A SEARCH.** If you refuse, you will be asked to leave that T station. If you do not leave, you may be arrested for trespass. Refusing and leaving are **NOT** grounds for the police to further question or detain you. But if they do, **DO NOT PHYSICALLY RESIST.** That can be a crime, whether or not the search is legal.

WHAT YOU CAN DO: If you disagree with the MBTA's proposed search policy, contact the MBTA Police (sample letter available on our website, www.nlgmass.org).

Call: (617) 222-1100
E-mail: chiefofpolice@mbta.com
Write: MBTA Police, 240 South Hampton St., Boston, MA 02188

If you are searched or questioned, contact the National Lawyers Guild's National Police Accountability Project at (617) 227-6015 or npap@nlg.org.

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