



Written by [Michael Tennant](#) on June 1, 2011

Lawsuit: NYPD Searching Taxi Passengers Without Probable Cause

Freedom of movement, enshrined in Western law as far back as the Magna Carta, continues to suffer at the hands of government in the United States. All airline passengers are subjected to (often humiliating) searches and can be denied their right to travel by government agents. Railroad and subway passengers are often searched as well. Now, it seems, even taking a taxi in New York City can precipitate treatment as a criminal suspect — a constitutional violation that the New York Civil Liberties Union is challenging in court.



In a familiar turn of events, the New York Police Department appears to be using a seemingly well-intentioned program to protect cab drivers “as a license to remove passengers from the cars and to question, frisk, and search the passengers and to search their possessions,” the NYCLU’s [lawsuit](#) alleges. The Taxi/Livery Robbery Inspection Program (TRIP), instituted in 1994, allows police to stop taxi and livery cabs to question drivers about their well-being and to inspect the interior of their cars visually, but only for cars displaying a decal indicating that their owners and drivers have chosen to participate in the program. “An NYPD operations order about TRIP provides that passengers may not be removed from vehicles or questioned during stops absent independent suspicion of unlawful conduct on their part,” according to the complaint.

According to a U.S. Department of Justice [presentation](#) on preventing robbery of taxi drivers, courts have found both TRIP and a similar program in Boston to be constitutional. Courts had found earlier, similar programs unconstitutional because they “involved too much discretion for police in how to carry out the stops,” the presentation says. Unfortunately, NYPD officers seem to be exercising much more discretion than the law allows, either as a matter of policy or as a matter of ignorance. The NYCLU considers both possibilities, suggesting that the abuse of TRIP is a continuation of “the NYPD’s program of aggressively stopping and frisking pedestrians” (over 4 million such stops since 2003) and that it is the result of inadequate training of police officers.

The plaintiffs in the case, Terrence Battle and Munir Pujara, both allege that they were subjected to police searches without probable cause, which the complaint correctly states is a violation of both the New York and U.S. Constitutions.

Battle, a 38-year-old radio station manager and stand-up comedian, alleges that during a TRIP stop of a livery cab in which he was a passenger, officers ordered him to get out of the car despite the fact that the driver of the car had said everything was fine. Battle complied with that order and with a request for identification. He was then frisked and searched, and his bag was searched, all without his consent. Upon asking why he was being treated in such a manner, he was told that it was “routine” under TRIP and that he had consented to being questioned and searched by choosing to ride in a car with a TRIP decal.



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Pujara, a 37-year-old attorney with a Bronx social services organization, says he had a similar experience. Police stopped the livery cab in which he was riding and questioned the driver, who indicated that all was well. They then ordered Pujara to exit the vehicle. According to the complaint, Pujara, who was familiar with TRIP because he had defended a client who had previously been searched under the program, “asked the officers if they had any suspicion or cause to ask him to leave the car. They said they did not. He then asked what would happen if he did not leave the car. The officers told him he would be arrested.”

Pujara got out and was frisked and searched without his consent. He continued to challenge the officers’ authority to treat him as a criminal suspect, only to be repeatedly told that they were doing so as part of TRIP. Furthermore, he was told that such searches would continue with increased frequency. Neither plaintiff, the complaint states, was charged with a crime; nor had either done anything “unlawful or suspicious.” “The NYPD officers had no lawful basis to detain, question, or frisk” either of them, according to the lawsuit.

The suit adds weight to the allegations of both Battle and Pujara by noting: “Livery drivers of vehicles enrolled in the TRIP program report that police officers pull over their cars and detain, question, frisk, and search passengers, even after the drivers inform the police officers that there is nothing wrong in the car.”

“Merely riding in a livery cab should not make you a target for the police,” said NYCLU Associate Legal Director Christopher Dunn, lead counsel on the case. “We fully support driver safety checks, but this frightening mistreatment of livery passengers must stop.”

Dunn is correct; but then merely choosing to fly or to take other forms of transportation should not make one a target for law enforcement, either.

The NYCLU has good reason to suspect that minorities are being targeted under TRIP, pointing out that livery cabs “are the main form of for-hire passenger car service in minority-populated neighborhoods in New York City” and that the NYPD has been conducting similar searches of pedestrians, heavily skewed toward blacks and Latinos. While this is interesting and instructive (and undoubtedly infuriating to members of those groups), it is irrelevant to the question of whether police may search individuals of any color without probable cause. Constitutionally speaking, they may not. The NYCLU may gain the sympathy of certain persons by introducing racial politics into the mix, but they are just as likely to alienate others.

Battle and Pujara — and, by extension, future New York City taxi and livery cab passengers — deserve to win this case. The U.S. and New York Constitutions and centuries of Anglo-American jurisprudence are on their side. Unfortunately, in 21st-century America, that may not be enough.



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