

CEI Files *Amici* Brief In Support Of EPIC's Petition To Force A TSA Rulemaking On Strip-Search Machines

by [Marc Scribner](#) on July 19, 2012 · [0 comments](#)

Today, the Competitive Enterprise Institute (CEI) filed a [brief of *amici curiae*](#) in support of the Electronic Privacy Information Center's (EPIC) petition for writ of mandamus asking the D.C. Circuit Court of Appeals to force the Transportation Security Administration (TSA) to begin a mandated rulemaking on the use of "Advanced Imaging Technology" (AIT) screening machines (aka, full-body scanners or strip-search machines).

In addition to CEI, nine others signed on. They are:

- Robert L. Crandall, former Chairman and CEO of AMR and American Airlines;
- National Association of Airline Passengers;
- Digital Liberty, a project of Americans for Tax Reform;
- Electronic Frontier Foundation;
- The Rutherford Institute;
- Center for Individual Freedom;
- Cyber Privacy Project;
- Center for Financial Privacy and Human Rights; and
- Liberty Coalition

While not all of us agree on what precisely must be done to rein in TSA (CEI, for instance, wants this ineffective agency abolished and air travel security services privatized — or denationalized, as I prefer to say), but we all agree on one thing: the TSA ought to be required to follow the law. This was the theme of an afternoon [Capitol Hill briefing](#) today sponsored by the Cato Institute.

In July 2011, the D.C. Circuit found in EPIC's favor and said that the TSA had not conducted a notice-and-comment rulemaking allowing for public input on these devices, as required under the Administrative Procedure Act. The Court ordered the TSA to "promptly" begin the rulemaking process. After more than a year, the TSA has yet to comply with the Court's mandate. And a TSA spokesperson recently, and vaguely, told a reporter that they plan to begin the rulemaking proceeding "next year."

This is unacceptable, especially as the TSA continues to roll out these ineffective (according to the Government Accountability Office) and privacy-violating machines. There are now about 700 AIT scanners in nearly 190 airports nationwide. By 2013, the TSA is expected to have spent \$500 million on them. That's \$500 million on a technology that likely doesn't work. Remember the puffer machines that supposedly detected explosives? Well, [those didn't work either](#), and they now sit unused in a warehouse. And that worthless technology only cost \$36 million.

The TSA is out of control, which is why we need the Court to find in EPIC's favor and mandate that a rulemaking on these AIT machines is opened within 60 days.

While we wait for the Court's decision, please [sign this petition to President Obama](#) urging him to require that the TSA follow the law.