



**Bob Ferguson**  
**ATTORNEY GENERAL OF WASHINGTON**

Administration Division  
PO Box 40100 • Olympia WA 98504-0100 • (360) 753-6200

February 13, 2019

**VIA FEDEX and First Class Mail**

David S. Leach  
President and CEO  
Greyhound Lines, Inc.  
PO Box 660362  
Dallas, TX 75266-0362

Greyhound Lines, Inc.  
350 North St. Paul Street  
Dallas, TX 75201

**RE: Consent to Search Buses at the Spokane Intermodal Facility**

Dear Mr. Leach:

As Washington State Attorney General, I write concerning Greyhound Lines, Inc.'s (Greyhound) practice of voluntarily allowing U.S. Customs and Border Protection (CBP) agents to board Greyhound buses and question passengers at the Intermodal Facility in Spokane. Greyhound's practice creates frequent delays and alarm for Washingtonians traveling to and through Spokane, and the practice falls particularly harshly on passengers of color, who are reportedly singled out by CBP for questioning and detention.

Publicly, Greyhound has said that it has no choice but to allow "immigration raids on [its] buses."<sup>1</sup> That position is incorrect, and fails to acknowledge Greyhound's rights under federal law to decline permission for CBP to conduct immigration sweeps on privately operated buses.

Here in Washington, Greyhound's business practices must comply with state law. That means following Washington's clear prohibition on business practices that are unfair, deceptive, or discriminatory. Greyhound must also abide by its duties to its customers as a common carrier. I write to provide you with information and guidance so that Greyhound may take immediate action to prevent or reverse potential violations of Washington law.

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<sup>1</sup> Letter from David Leach, President/CEO, Greyhound Lines, Inc., to Senators Patrick J. Leahy and Patty Murray (July 23, 2018) (Attached as Appendix A).

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**History of Greyhound's Practices at the Intermodal Facility and Nationwide**

Greyhound offers multiple daily service runs that originate, end, or pass through the Spokane Intermodal Facility at 221 West First Avenue in downtown Spokane. As you are aware, armed CBP agents frequently board buses operating on purely domestic routes. Once onboard, CBP officers question passengers and demand documents, sometimes asking passengers to de-board the bus for further questioning or arrest.<sup>2</sup> As you have acknowledged, the stops create “delays, missed connections, and unhappy customers.”<sup>3</sup> Reports to my office confirm what should be obvious: the stops are an alarming and unwelcome intrusion for Greyhound passengers – whether immigrants or not – who have their trip interrupted by questioning from armed federal agents who are standing over them in the aisle and blocking the exit door.

Based on news reports, lawmaker complaints, and accounts from affected passengers, it is becoming increasingly clear that CBP's questioning improperly targets people of color, including passengers who have legal status to be in the United States. In January 2018, for example, CBP agents reportedly arrested a father and son as they rode a Greyhound from Seattle to Montana, after asking them, “Are you illegal?” even though the son had valid Deferred Action for Childhood Arrivals (DACA) status and the father never provided the agents any information about his immigration status.<sup>4</sup> And just last month, a comedian returning home to Portland, Oregon, from Pullman, Washington was forced to de-board a Greyhound bus in Spokane even after he presented a valid license and work permit proving he had permission to be in the United States.<sup>5</sup> The comedian was reportedly interrogated, belittled, and wrongly accused of lying and falsifying documents. By contrast, white passengers report to my office that agents question them briefly, if at all.

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<sup>2</sup> See, e.g., *id.*; Letter from Tri-Caucus Chairs, et al. to David Leach, President/CEO, Greyhound Lines, Inc. (June 13, 2018) (Attached as Appendix B); Letter from David Leach, President/CEO Greyhound Lines, Inc. to Rep. Joaquin Castro (June 15, 2018) (Attached as Appendix C); Letter from David Leach, President/CEO, Greyhound Lines, Inc. to Ben Stuckart, Spokane City Council President (June 26, 2018) (Attached as Appendix D); see also Rachel Alexander, *False rumor of Spokane ICE raid sparked by routine border enforcement patrols*, Spokesman-Review, Feb. 15, 2017, <http://www.spokesman.com/blogs/spincontrol/2017/feb/15/false-rumor-spokane-ice-raid-sparked-routine-border-enforcement-patrols/>; Spokane City Council Briefing Paper, *Federal Civil Immigration Enforcement on City Property* at 4 (Oct. 1, 2018), <https://static.spokanecity.org/documents/citycouncil/advance-agendas/2018/10/city-council-advance-agenda-2018-10-15.pdf>.

<sup>3</sup> Letter from David Leach, President/CEO, Greyhound Lines, Inc. to Rep. Joaquin Castro (June 15, 2018) (Appendix C).

<sup>4</sup> Suzanne Phan, *Father, son with DACA detained on Greyhound bus by Border Patrol in Spokane*, KOMO News, Jan. 11, 2018, <https://komonews.com/news/local/federal-way-father-and-son-with-daca-detained-in-spokane-on-greyhound-bus-by-border-patrol>.

<sup>5</sup> Luz Lazo, *Comedian says Border Patrol agents pulled him off Greyhound bus to check his status, then told him his papers were fake*, Wash. Post, Jan. 28, 2018, [https://www.washingtonpost.com/transportation/2019/01/28/comedian-says-border-patrol-agents-pulled-him-off-greyhound-bus-check-his-status-then-told-him-his-papers-were-fake/?utm\\_term=.6cddc15a6c07](https://www.washingtonpost.com/transportation/2019/01/28/comedian-says-border-patrol-agents-pulled-him-off-greyhound-bus-check-his-status-then-told-him-his-papers-were-fake/?utm_term=.6cddc15a6c07).

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The Spokane City Council recently attempted to address its “concerns over increased CBP presence” at the Intermodal Facility.<sup>6</sup> In October 2018, after hearing hours of public testimony, the City Council approved Ordinance No. C35681, which restricts CBP access to non-public areas of City property, including the Spokane Intermodal Facility where individuals need a ticket or express permission to enter. *See* Spokane Mun. Code (S.M.C.) §§ 12.05.005, 12.05.060; Spokane Resolution 2018-0089 (designating the Spokane Intermodal Facility a non-public area). The ordinance requires any person who wishes to enter non-public city property without a warrant for the purpose of executing “federal civil immigration enforcement operations” to obtain written permission from the mayor for each separate entry. S.M.C. § 12.05.050.

Greyhound publicly “support[ed] the action proposed by the City” and “endorsed the designation of its bus operations as non-public and off-limits to federal civil immigration enforcement activities.”<sup>7</sup> Notwithstanding its public statements to lawmakers and passengers, we understand that Greyhound continues to allow warrantless immigration checks on its buses at the Spokane Intermodal Facility without verifying whether CBP has received permission from the mayor, and has not itself sought permission from the mayor to allow CBP to enter its buses. Indeed, CBP has indicated in arrest records that Greyhound bus drivers have granted CBP officers permission to enter the bus to question passengers in the Spokane Intermodal Facility.

This problem is not restricted to Spokane. Because Greyhound has taken the position that federal immigration agents may board its buses anywhere within 100 miles of a border (including coastlines),<sup>8</sup> Greyhound’s voluntary practice affects passengers traveling on nearly all routes in Washington, including all people traveling through Washington’s ten largest cities.<sup>9</sup> Nationwide, nine of the ten largest U.S. cities fall within the 100-mile range – cities frequently visited by Washingtonians.<sup>10</sup>

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<sup>6</sup> In May 2018, the Spokane City Council learned that CBP would be increasing its presence in the Spokane Sector by adding thirty additional agents, while at the same time reducing operational U.S.-Canada border crossing hours in that Sector. *See* Spokane City Council Briefing Paper, *Federal Civil Immigration Enforcement on City Property* at 4 (Oct. 1, 2018), <https://static.spokanecity.org/documents/citycouncil/advance-agendas/2018/10/city-council-advance-agenda-2018-10-15.pdf>.

<sup>7</sup> Spokane City Ordinance No. C35681, Preamble; Letter from Tricia Martinez, Senior Vice President, Greyhound Lines, Inc. to Ben Stuckart, Spokane City Council President (Oct. 19, 2018) (Attached as Appendix E).

<sup>8</sup> *See* Letter from David Leach, President/CEO, Greyhound Lines, Inc. to Ben Stuckart, Spokane City Council President (June 26, 2018) (Appendix D).

<sup>9</sup> The ten most populous cities in Washington are Seattle, Spokane, Tacoma, Vancouver, Bellevue, Kent, Everett, Renton, Federal Way, and Spokane Valley. Wash. Office of Fin. Mgmt., *State of Washington 2018 Population Trends* at 20 (July 2018), [https://www.ofm.wa.gov/sites/default/files/public/dataresearch/pop/april1/ofm\\_april1\\_poptrends.pdf](https://www.ofm.wa.gov/sites/default/files/public/dataresearch/pop/april1/ofm_april1_poptrends.pdf).

<sup>10</sup> Because nine of the ten largest U.S. cities fall within this range, nearly two out of three people living in the United States live within the 100-mile border zone. *See* ACLU, *The Constitution in the 100-Mile Border Zone*, <https://www.aclu.org/other/constitution-100-mile-border-zone>.

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Because of its widespread and negative impacts, Greyhound's practice of voluntarily permitting immigration sweeps on its buses has been the source of repeated criticism and complaint. In March 2018, ACLU affiliates around the country, including Washington, wrote to Greyhound requesting that Greyhound "change its policy and . . . refuse CBP permission to conduct invasive bus raids without a warrant."<sup>11</sup> In June 2018, twenty-three members of Congress sent a letter to Greyhound warning that the policy or practice of allowing "repeated, widespread immigration raids on Greyhound buses under the guise of U.S. Customs and Border Protection (CBP) 'transportation checks' . . . exposes its passengers to frequent . . . racial profiling, and harassment."<sup>12</sup> On October 19, 2018, civil rights groups and Amalgamated Transit Union Local 1700 (which represents Greyhound's own drivers, mechanics, and terminal workers) delivered over 200,000 petition signatures to Greyhound's legal counsel urging Greyhound to stop voluntarily permitting discriminatory raids of its paying customers.<sup>13</sup> And in November 2018, passengers filed a class action lawsuit against Greyhound in California alleging violations of California unfair competition, consumer protection, and civil rights laws. *Cordova v. Greyhound Lines, Inc.*, No. RG18928028, 2018 WL 6011248 (Alameda Cty. Cal. Super. Ct. Nov. 8, 2018).

For its part, Greyhound has stated that it is "very unhappy that our drivers and passengers are being stopped by armed federal officers conducting immigration raids on our buses."<sup>14</sup> Nonetheless, the company contends that it has "no option but to comply with armed federal law enforcement officers operating under the warrantless authority governed by Title 8 Section 1357."<sup>15</sup> That position is incorrect and misleads consumers about the voluntary choice Greyhound is making. As explained below, Greyhound is not required to allow these warrantless immigration raids under federal law, and is instead required to comply with Washington law.

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<sup>11</sup> Letter from ACLU to David Leach, President/CEO, Greyhound Lines, Inc. and Tricia Martinez, Senior Vice President, Greyhound Lines, Inc. (Mar. 21, 2018), <https://www.aclu-wa.org/docs/aclu-letter-greyhound-bus>.

<sup>12</sup> Letter from Congressional Tri-Caucus Chairs, et al. to David Leach, President/CEO, Greyhound Lines, Inc. (June 13, 2018) (Appendix B).

<sup>13</sup> Press Release, ACLU, *ACLU, Rep. Castro, and others deliver 200,000 petitions demanding Greyhound stop allowing border patrol raids* (Oct. 19, 2018), <https://www.aclu.org/news/aclu-rep-castro-and-others-deliver-200000-petitions-demanding-greyhound-stop-allowing-border>.

<sup>14</sup> Letter from David Leach, President/CEO, Greyhound Lines, Inc. to Senators Patrick J. Leahy and Patty Murray (July 23, 2018) (Appendix A); Letter from David Leach, President/CEO, Greyhound Lines, Inc. to Rep. Joaquin Castro (June 15, 2018) (Appendix C).

<sup>15</sup> Letter from David Leach, President/CEO, Greyhound Lines, Inc. to Senators Patrick J. Leahy and Patty Murray (July 23, 2018) (Appendix A); *see also* Letter from David Leach, President/CEO, Greyhound Lines, Inc. to Rep. Joaquin Castro (June 15, 2018) (Appendix C); Letter from David Leach, President/CEO, Greyhound Lines, Inc. to Ben Stuckart, Spokane City Council President (June 26, 2018) (Appendix D).

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**Federal Law Does Not Require Greyhound to Consent to CBP's Requests to Board Greyhound Buses**

Federal law does not require Greyhound to grant permission to CBP agents who wish to board buses at the Spokane Intermodal Facility. While the Immigration and Nationality Act (INA) permits immigration officers to “board and search for aliens . . . [on] any railcar, aircraft, conveyance, or vehicle” within a “reasonable distance from any external boundary of the United States,” 8 U.S.C. § 1357(a)(3), the U.S. Supreme Court held that CBP does not have *carte blanche* authority to stop vehicles that are not even traveling to or from the border. *Almeida-Sanchez v. United States*, 413 U.S. 266, 273 (1973). Instead, interior searches – even those within 100 miles of a border – may be treated as border searches only if they occur at the “functional equivalent” of a border. *Id.* at 268, 272-73 (rejecting CBP’s argument that its “100-mile” regulation, 8 C.F.R. § 287.1, justified the stop). In *Almeida-Sanchez*, the Supreme Court invalidated a search that occurred “on a California road that lies at all points at least 20 miles north of the Mexican border” on what is “essentially an east-west highway” because it could not reasonably be considered a border search. *Id.* at 267, 273. Thus, more than 45 years ago, the Supreme Court rejected CBP’s reliance on the very 100-mile rule that CBP and Greyhound use to justify raids of the Intermodal Facility today. *Id.* at 268.

Following *Almeida-Sanchez*, the Spokane Intermodal Facility cannot plausibly be characterized as the “functional equivalent” of a border. It is not on any major road that crosses the border and is, instead, located in the dense downtown area of Spokane at least 107 road miles south of any road crossing the Canadian border. Further, CBP is boarding Greyhound buses that do not cross any international border during any part of their route, as the station serves as a stop for east-west travel. Compare *Almeida-Sanchez*, 413 U.S. at 267, with *United States v. Martinez-Fuerte*, 428 U.S. 543, 552-53 (1976) (permanent federal checkpoint was on major freeway leading directly to border).

Because the border-search statute does not apply at the Intermodal Facility, federal agents there must obey normal search and seizure rules – that is, they must have reasonable suspicion to stop a bus, and probable cause to search and arrest passengers, unless they first obtain Greyhound’s consent to board. Greyhound retains important rights in this circumstance: unless agents present a warrant or state that they have reasonable suspicion to believe a particular individual on the bus is in the country illegally, Greyhound retains the constitutional right to grant or deny permission for CBP to board its buses at the Intermodal Facility.<sup>16</sup>

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<sup>16</sup> A denial of consent could be communicated at the corporate level and/or via clear postings on Greyhound buses. We are aware of no factual basis for your previous contention that any refusal by Greyhound to consent to bus sweeps would somehow require individual drivers to “place themselves in the position of resisting entry onto their buses.” Cf. Letter from David Leach, President/CEO, Greyhound Lines, Inc. to Ben Stuckart, Spokane City Council President (June 26, 2018) (Appendix D).



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**Greyhound Must Comply With Washington's Consumer Protection Act**

Greyhound is required to comply with Washington's Consumer Protection Act (CPA), which prohibits "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." RCW 19.86.020. Washington courts construe the CPA broadly. *Michael v. Mosquera-Lacy*, 165 Wn.2d 595, 602 (2009) (CPA attempts to reach "every person who conducts unfair or deceptive acts or practices in any trade or commerce") (internal quotation mark omitted).

The CPA precludes any act or practice that "has the capacity to deceive substantial portions of the public" or is "an unfair or deceptive act . . . in violation of public interest." *Klem v. Wash. Mut. Bank*, 176 Wn.2d 771, 787 (2013).<sup>17</sup> Greyhound's grant of blanket permission allowing CBP to board buses, cause travel delays, alarm and confuse patrons, and otherwise negatively impact patrons' travel appears to be an unfair business practice in violation of the public interest. Relatedly, Greyhound's apparent failure to notify ticket buyers at the point of sale of material terms, including that passengers should expect regular travel delays, or even possible arrest, as a result of Greyhound's permissive relationship with CBP, likely gives rise to liability under the CPA. *See Easter v. Am. W. Fin.*, 381 F.3d 948, 964 (9th Cir. 2004) (CPA "applies to acts that induce plaintiffs to enter into their contracts"); *Testo v. Russ Dunmire Oldsmobile, Inc.*, 16 Wn. App. 39, 51-52 (1976) (knowing failure to reveal something of material importance is deceptive).<sup>18</sup> Any failure by Greyhound to abide by its own non-discrimination policy as advertised to customers, for example, by allowing CBP on the bus despite knowledge that passengers of color disproportionately will be targeted for negative treatment, may also violate the CPA.<sup>19</sup> *Cf. Segal Co. (E. States) v. Amazon.Com*, 280 F. Supp. 2d 1229, 1233-34 (W.D. Wash. 2003) (breach of a contract that affects the public may constitute an unfair or deceptive business practice) (citing *Hangman Ridge*, 105 Wn.2d at 790-91).

Greyhound may also be committing unfair and deceptive trade practices by refusing to comply with the Spokane City Ordinance governing the Intermodal Facility. *Cf. Starczewski v. Unigard Ins. Grp.*, 61 Wn. App. 267, 274-75 (1991) (failure to comply with local ordinance may give rise to violation of the CPA); *Sparks v. Am. Family Mut. Ins. Co.*, No. C18-5038 BHS, 2018 WL 2159921, at \*10 (W.D.

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<sup>17</sup> In addition, conduct is a *per se* violation of the CPA if it violates a Washington law that defines an unfair or deceptive trade practice. *See Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wn.2d 778, 786 (1986). For example, violations of Washington's Law Against Discrimination (WLAD) occurring in trade or commerce are *per se* violations of the CPA. RCW 49.60.030(3). That provision likely is triggered here, because of the WLAD issues discussed in the next section.

<sup>18</sup> We are aware that Greyhound recently modified its "Your rights & rules on board" webpage to contain high-level information about CBP stops. Greyhound, *Your rights & rules on board*, <https://www.greyhound.com/en/help-and-info/travel-info/your-rights-rules-on-board>. This addition, which is unconnected to the point of sale where a reasonable consumer would look for material information about the trip, does nothing to resolve our CPA concerns.

<sup>19</sup> David J. Neal, *Border Patrol agents taking people off buses is common. It happened again this week*, Miami Herald, Jan. 28, 2018, <https://www.miamiherald.com/news/local/community/broward/article197135809.html>.

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Wash. May 10, 2018) (regulatory violation constitutes a *per se* unfair trade practice). The ordinance plainly requires that “[a]ny warrantless attempts or requests for access to” non-public city property for the purposes of federal civil immigration enforcement “shall be immediately sent to the Mayor” or the appropriate designee. S.M.C. § 12.05.050(D). And permission for “each authorized entry” “shall only be provided with the express, written approval of the Mayor.” S.M.C. § 12.05.050(C). Greyhound has apparently failed or refused to comply with these provisions, as we are aware of no instance when Greyhound has sought mayoral permission for CBP to enter the non-public Intermodal Facility to board its buses. Further, Greyhound has not notified its customers that it does not comply with City law. This corporate behavior appears likely to mislead or deceive consumers who reasonably believe that Greyhound complies with all Spokane laws when it does business in the City.

### **Greyhound Must Comply With Washington’s Law Against Discrimination**

Greyhound also has a duty to comply with Washington’s Law Against Discrimination (WLAD) which protects “[t]he right to be free from discrimination because of race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, [or] . . . disability . . . .” RCW 49.60.030(1). Protected individuals are guaranteed “[t]he right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges” of any place of public accommodation. RCW 49.60.030(1)(b); RCW 49.60.040(2). The WLAD defines “public accommodation” to include businesses providing “public conveyance or transportation on land.” RCW 49.60.040(2).

Under the WLAD, it constitutes prohibited discrimination to “commit an act which directly or indirectly results in any distinction, restriction, or discrimination.” RCW 49.60.215. This prohibition “encompasses more than the outright denial of service. It also proscribes serving customers of one [protected class] in a manner different from those of another [class].” *Evergreen Sch. Dist. No. 114 v. Wash. State Human Rights Comm’n, ex rel. Johnson*, 39 Wn. App. 763, 774 (1985) (quoting *King v. Greyhound Lines, Inc.*, 61 Or. App. 197, 202 (1982)). “[O]ne need not be obvious or forthright to effect a discrimination . . . discrimination may arise just as surely through subtleties of conduct.” *Evergreen*, 39 Wn. App. at 775 (inner quotation and citation omitted).

Greyhound’s practice of voluntarily permitting CBP agents to board buses for the purpose of conducting immigration checks appears to infringe on passengers’ rights in a place of public accommodation on the basis of race or national origin, RCW 49.60.030(1)(b), and “directly or indirectly results in [a] distinction, restriction, or discrimination,” RCW 49.60.215. Numerous reports indicate that CBP’s immigration checks do not target all passengers equally. It is widely reported, for example, that interrogations such as “are you illegal?” focus overwhelmingly on non-white passengers. According to one witness in Spokane, CBP agents “only spent time questioning individuals that had

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darker skin or had an accent.”<sup>20</sup> One Spokane County Public Defender witnessed CBP agents “harass[ing]” foreign exchange students for not carrying identification.<sup>21</sup>

Washingtonians’ experiences are consistent with experiences of Greyhound passengers nationwide. CBP reportedly targets Greyhound for sweeps precisely because CBP perceives Greyhound’s ridership as disproportionately non-white, low-income, and/or Latino.<sup>22</sup> Greyhound’s SEC filings have confirmed these demographics, identifying “a diverse customer base, consisting primarily of low to middle income passengers from a wide variety of ethnic backgrounds.”<sup>23</sup> Greyhound itself acknowledges that “[t]he use of race or ethnicity as a factor in conducting stops, searches, inspections, and other law enforcement activities . . . is illegal.”<sup>24</sup> Nonetheless, and in spite of having direct experience as daily witness to CBP’s interrogation strategies, Greyhound continues to permit CBP to raid its buses. Greyhound’s conduct raises significant concerns under the WLAD.

**As a Common Carrier, Greyhound Owes a Special Duty of Care to Passengers**

As a common carrier operating in Washington, Greyhound owes its customers “the highest degree of care to protect its passengers from harm.” *Parrilla v. King County*, 138 Wn. App. 427, 442 (2007). This includes a duty to comply with its own policies and regulations, and a duty to protect passengers from harm caused by others, when such conduct is known or could reasonably be foreseen and prevented through the exercise of due care. *See Benjamin v. City of Seattle*, 74 Wn.2d 832, 833-34 (1968); *Tortes v. King County*, 117 Wn. App. 1007, published with modifications at 119 Wn. App. 1, 8 (2003), as amended (Sept. 22, 2003) (explaining “duty to guard against foreseeable third party actions”).

Greyhound acknowledges that its practice of permitting warrantless CBP immigration checks restricts its ability to provide safe and reliable travel for its patrons. You have stated that Greyhound’s “primary obligation is to ensure that all passengers are transported safely and efficiently to their destinations.”<sup>25</sup>

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<sup>20</sup> Spokane City Council Briefing Paper, *Federal Civil Immigration Enforcement on City Property* at 4 (Oct. 1, 2018), <https://static.spokanecity.org/documents/citycouncil/advance-agendas/2018/10/city-council-advance-agenda-2018-10-15.pdf>.

<sup>21</sup> *Id.*

<sup>22</sup> CBP agents have pejoratively referred to such raids as “immigration Dumpster-diving” while at the same time acknowledging that those detained have not crossed the border recently. *See* N.Y. Civil Liberties Union, *Justice Derailed: What Raids on New York’s Trains and Buses Reveal About Border Patrol’s Interior Enforcement Practices* at 19 (Nov. 2011),

[https://www.nyclu.org/sites/default/files/publications/NYCLU\\_justicederailedweb\\_0.pdf](https://www.nyclu.org/sites/default/files/publications/NYCLU_justicederailedweb_0.pdf) (citing Nadja Drost, *Border Net Catches Few Terror Suspects*, Times Union (Apr. 19, 2009).

<sup>23</sup> Greyhound Lines, Inc., Annual Report Form 10-K at 5 (Mar. 31, 2005), <https://www.sec.gov/Archives/edgar/data/813040/000095013405006535/d23663e10vk.htm>.

<sup>24</sup> Greyhound, *Your rights & rules on board*, <https://www.greyhound.com/en/help-and-info/travel-info/your-rights-rules-on-board>.

<sup>25</sup> Letter from David Leach, President/CEO, Greyhound Lines, Inc., to Ben Stuckart, Spokane City Council President (June 26, 2018) (Appendix D).



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And you admit that “these raids impact [y]our business by causing delays, missed connections, and unhappy customers.”<sup>26</sup> Indeed, Greyhound itself has advocated for legislation to prevent warrantless searches, noting that it would “improve [Greyhound’s] ability to provide an excellent customer experience to [its] riders, while also preventing delays and missed connections that may occur as a result of [CBP] searches.”<sup>27</sup> Yet Greyhound continues voluntarily to permit CBP agents to board its buses.

Under these circumstances, Greyhound’s special relationship with its patrons as a common carrier may give rise to liability for the foreseeable actions of federal agents. Given the long history and known, negative outcomes of these warrantless stops, the harm caused by bus sweeps is not only foreseeable, it is known and preventable by the exercise of care by Greyhound – *i.e.*, declining access to its private property. In addition, to the extent Greyhound affirmatively acts to create a perilous situation for its patrons each time it grants CBP agents’ requests to board buses, it may also be liable for CBP’s foreseeable acts and any harm caused as a result. *Robb v. City of Seattle*, 176 Wn. 2d 427, 435-436 (2013).

In light of the above, as Attorney General responsible for protecting the health and well-being of residents and travelers in my state, I request that Greyhound terminate its practice or policy of voluntarily permitting federal agents to board buses to conduct warrantless immigration enforcement checks at the Spokane Intermodal Facility. I request that you confirm your agreement to cease this practice in writing no later than March 1, 2019.

Should you wish to discuss this matter further, you may contact Civil Rights Division Chief Colleen Melody, at [Colleenm1@atg.wa.gov](mailto:Colleenm1@atg.wa.gov) or (206) 464-7744. Otherwise, I look forward to receiving your written confirmation and thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Bob Ferguson". The signature is fluid and cursive, with the first name "Bob" and last name "Ferguson" clearly legible.

BOB FERGUSON  
Washington State Attorney General

RWF/jlg  
Attachments

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<sup>26</sup> Letter from David Leach, President/CEO, Greyhound Lines, Inc., to Rep. Joaquin Castro (June 15, 2018) (Appendix C).

<sup>27</sup> Letter from David Leach, President/CEO, Greyhound, Lines, Inc., to Senators Patrick J. Leahy and Patty Murray (July 23, 2018) (Appendix A).

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cc: David A. Condon, Mayor of Spokane (Via First-Class Mail)  
Ben Stuckart, Spokane City Council President (Via First-Class Mail)  
Breean Beggs, Spokane City Council Member (Via First-Class Mail)  
Mike Ormsby, Spokane City Attorney (Via First-Class Mail)

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# Appendix A



July 23, 2018

The Honorable Patrick J. Leahy  
United States Senate  
437 Russell Senate Office Building  
Washington, DC 20510

The Honorable Patty Murray  
United States Senate  
154 Russell Senate Office Building  
Washington, DC 20510

Dear Senators Leahy and Murray:

Greyhound Lines is pleased to support your recently introduced legislation, the Leahy-Murray Border Zone Reasonableness Restoration Act of 2018 (S. 3162). As noted in your fact sheet about the bill, Greyhound buses have been boarded by DHS officers for warrantless searches of our passengers. Amtrak and other bus companies have faced similar enforcement actions.

Greyhound does not coordinate with CBP nor support these actions and we are very unhappy that our drivers and passengers are being stopped by federal officers conducting immigration raids on our buses.

While Greyhound drivers have no option but to comply with armed federal law enforcement officers operating under the warrantless authority governed by Title 8 Section 1357, we believe your legislation will greatly reduce these incidents. Your bill will improve our ability to provide an excellent customer experience to our riders, while also preventing delays and missed connections that may occur as a result of DHS searches.

Thank you for introducing S. 3162. Please count Greyhound among the organizations that publicly support your bill and do not hesitate to let me know how we can help move it through the legislative process.

Sincerely,

David S. Leach  
President and CEO

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# Appendix B



**Congress of the United States**  
**Washington, DC 20515**

June 13, 2018

David Leach  
Chief Executive Officer  
Greyhound Lines Inc.  
350 North St. Paul Street  
Dallas, TX 75201

Dear Mr. Leach:

We write today to express our concerns over repeated, widespread immigration raids on Greyhound buses under the guise of U.S. Customs and Border Protection (CBP) “transportation checks” taking place at locations other than ports of entry or lawful checkpoints. It is our understanding that Greyhound allows CBP agents to board its buses without a warrant or probable cause in order to ask customers about their citizenship. As Members of Congress, we have a stake in Greyhound’s policies and practices, as Greyhound has over 3,800 destinations across North America and serves millions of customers per year. Greyhound’s actions affect our constituents, and we contend that, by granting consent to CBP agents to board buses to inquire about immigration status, Greyhound exposes its passengers to frequent violations of their constitutional rights to be free from warrantless searches and seizures, racial profiling, and harassment.

The American Civil Liberties Union has documented CBP agents boarding Greyhound buses across the nation, spanning coast to coast, with resulting detentions and deportations.<sup>1</sup> We consider this behavior unacceptable, and believe it is within your power to change it.

Title 8 of the U.S. Code outlines the powers immigration officers have, including CBP agents, to conduct warrantless searches.<sup>2</sup> The statute reads in part that officers can, within a reasonable distance from the border, “board and search for aliens” on “any railway car, aircraft, conveyance, or vehicle.”<sup>3</sup> But as with any law conferring enforcement authority, the statute authorizes agents to conduct such activities only while complying with the Constitution. Congress has not approved, nor could it, a violation of the Constitution as it has been interpreted by the Supreme Court regarding this very statute.<sup>4</sup> Therefore, it is our understanding that CBP must have either probable cause or be given Greyhound’s consent to board and search for immigration infractions.

According to Greyhound’s website, the company prides itself on “providing safe, enjoyable and affordable travel to nearly 18 million passengers each year in the United States and Canada.”<sup>5</sup> We do not see how this mission comports with authorizing dragnet CBP searches of Greyhound’s passengers.

<sup>1</sup> <https://www.aclu-wa.org/docs/aclu-letter-greyhound-bus>

<sup>2</sup> 8 U.S.C. § 1357

<sup>3</sup> 8 U.S.C. § 1357(a)(3)


<sup>4</sup> *Almeida-Sanchez v. United States*, 413 U.S. 266 (1973)

<sup>5</sup> <https://www.greyhound.com/en/about>

Will you change this practice and refuse CBP agents permission to board buses, outside a port of entry or lawful checkpoint, without probable cause?

Thank you for your consideration. We await your response and hope you will commit to a fair application of the law for all of your customers.

Sincerely,



Joaquin Castro  
First Vice Chair  
Congressional Hispanic Caucus



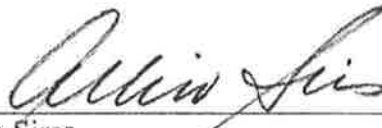
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Chair  
Congressional Hispanic Caucus



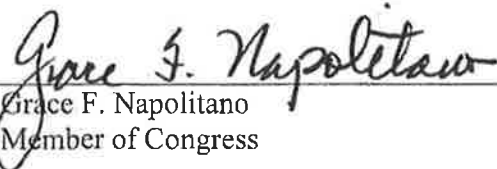
Cedric L. Richmond  
Chair  
Congressional Black Caucus



Judy Chu  
Chair  
Congressional Asian Pacific American  
Caucus



Albio Sires  
Member of Congress



Grace F. Napolitano  
Member of Congress



Bennie G. Thompson  
Member of Congress



Barbara Lee  
Member of Congress



Gwen Moore  
Member of Congress



Darren Soto  
Member of Congress



Luis Gutiérrez  
Member of Congress



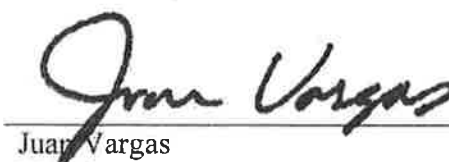
Raúl M. Grijalva  
Member of Congress



Hakeem Jeffries  
Member of Congress



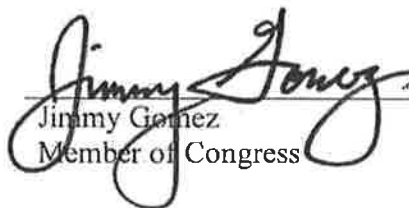
Eleanor Holmes Norton  
Member of Congress



Juan Vargas  
Member of Congress



J. Luis Correa  
Member of Congress



Jimmy Gomez  
Member of Congress



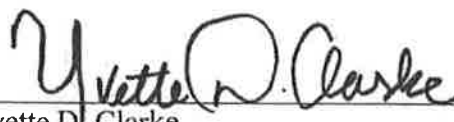
Mark Takano  
Member of Congress



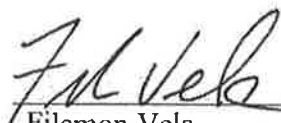
Nanette Diaz Barragán  
Member of Congress



Grace Meng  
Member of Congress



Yvette D. Clarke  
Member of Congress



Filemon Vela  
Member of Congress



Adriano Espaillat  
Member of Congress



June 15, 2018

The Honorable Joaquin Castro  
First Vice Chair  
Congressional Hispanic Caucus  
1221 Longworth House Office Building  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Castro:

I received the letter that you co-signed regarding Customs and Border Patrol (CBP) enforcement actions on Greyhound buses. I want you to know that I share your concerns about these warrantless searches. Greyhound does not coordinate with CBP nor support these actions and we are very unhappy that our drivers and passengers are being stopped by armed federal officers conducting immigration raids on our buses.

The experience of our customers is an enormous concern to me. In addition to the primary objections raised by the ACLU, these raids impact our business by causing delays, missed connections, and unhappy customers. As you may know, Greyhound is not alone in this matter; other bus companies and Amtrak have also been subjected to these warrantless enforcement actions and to my knowledge we are all handling these raids in the same manner.

Unfortunately, Congress did pass legislation that expressly allows warrantless searches on common carriers such as Greyhound within a reasonable distance from all external boundaries of the United States. In final regulations, the Department of Homeland Security defined this distance as within 100 miles from all borders. We would strongly support a legislative effort to change this regulation and the underlying law. Greyhound would like to work constructively with you and all Members to change the law.

However, in the meantime, we believe it would present a serious danger to our union drivers to direct them to physically block armed federal officers who have been instructed that they do not need a warrant to board our buses. If Greyhound were to require a driver to obstruct a federal officer, they would be subject to arrest, fine, and jail. Their physical safety might be harmed by attempting to resist these armed federal agents. CBP officers do not ask if they may board our bus; they simply demand to board. Our intercity bus drivers do not have the legal training or background to raise a constitutional objection to a search.



Greyhound looks forward to working with you to enact new legislation to stop the warrantless immigration searches on our buses. We ask that other bus companies, the American Bus Association, and Amtrak also be brought into this process, as Greyhound should not be singled out as the sole company facing these problems.

In addition, we appreciate that the ACLU is attempting to address the constitutionality of these searches through the federal courts, although disappointed that they have claimed we are complicit in these raids. We are not. We look forward to the resolution of the constitutional question they have raised. Once the case is resolved we will have much more clarity on the limits of CBP enforcement actions.

In the meantime, please do not hesitate to contact me directly to discuss how Greyhound can support your efforts in Congress to change the underlying statutes governing CBP enforcement actions.

Sincerely,

David S. Leach  
President & CEO



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# Appendix D



June 26, 2018

Mr. Ben Stuckart  
President, Spokane City Council  
808 W. Spokane Falls Blvd.  
Spokane, WA 99201-3335

RE: Greyhound's compliance with Spokane's Human Rights Law

Dear Mr. Stuckart:

Greyhound Lines, Inc. ("Greyhound") will address the issues raised in your letter of June 13, 2018, namely (i) Greyhound's alleged decision to allow Customer and Border Protection (CBP) into the Spokane Intermodal and (ii) Greyhound's ability to prevent CBP searches.

Regarding the first, the City of Spokane owns and controls the Intermodal referenced in your letter from which Greyhound operates as a tenant. The City of Spokane—as the owner and controller of the property—has the authority and under your reasoning the responsibility to prevent CBP from coming onto the property if it so chooses. Greyhound does not have that authority. Greyhound is only one of several tenants of the property. If the City of Spokane objects to CBP accessing the facility, it should prevent CBP from "park[ing] their trucks in the parking lot of the Intermodal Center, walk[ing] through the facility, [and] question[ing] people on the grounds" as specified in your letter.

Greyhound neither invites nor coordinates with CBP in any manner concerning searches on Greyhound buses. The position taken by the American Civil Liberties Union (ACLU) and adopted and relied upon by the City of Spokane is misleading. There is no legal authority to support the argument that Greyhound has an absolute Fourth Amendment right to deny entry onto its buses. Under 8 U.S.C. § 1357(a)(3), CBP officers may, within a reasonable distance from any external boundary of the United States, board and search for aliens any railway car, aircraft, conveyance, or vehicle. Agency regulations have established that a reasonable distance is no more than 100 air-miles from any external boundary of the United States. 8 C.F.R. § 287.1(a)(2). These provisions give CBP officers the right to conduct warrantless searches of intercity buses operated by Greyhound.

ACLU's claim, as adopted by the City of Spokane, that "no Act of Congress can authorize a violation of the Constitution," citing Alameda-Sanchez v. United States, 413 U.S. 266 (1973), is not absolute. It is not clear under current case law that the Fourth Amendment right to insist on a warrant to inspect a *private automobile* would necessarily apply to *passengers of a common carrier on a commercial motor vehicle* operated by an intercity bus company. The expectation of privacy of a passenger in a private automobile is certainly higher than that of a passenger travelling on a common carrier, commercial intercity motorcoach. Moreover, the constitutional protection afforded by the courts will depend largely on the nature of the intrusion, which will vary based on the facts of each case. To date, there has been no assertion that there is any case law to support the assumption that the passenger cabin of an intercity bus is a non-public area of a business merely because a passenger requires a ticket to occupy a seat in the cabin. Greyhound is a common carrier and is required by law to accept all passengers who purchase a ticket for travel. Once again, the law is not settled as asserted.



Until the courts or Congress clarifies that CBP officers do not have any right to board a bus within 100 air-miles of the U.S. boundaries, Greyhound will not ask its drivers to place themselves in the position of resisting entry onto their buses when reasonably requested by CBP officers. Intercity bus drivers do not have the legal training or background to determine when a warrant might or might not be required or whether the officer has probable cause or reasonable suspicion to enter the vehicle. Our drivers' primary obligation is to ensure that all passengers are transported safely and efficiently to their destinations. Individual passengers, of course, retain their rights to resist questioning or requests for documents by CBP officers under the Fourth Amendment and laws of the United States.

Greyhound welcomes all passengers and does not require identification to purchase a ticket or board a bus. Greyhound does not support or coordinate searches by CBP and is not happy about them.

Greyhound looks forward to a constructive dialogue on this issue and would welcome a meeting as you suggest. In the interim, Greyhound reiterates that it is within the City of Spokane's authority and responsibility to prevent access to "its own property" if it so chooses.

Sincerely,

David S. Leach  
President & CEO  
Greyhound Lines, Inc.

Tricia A. Martinez  
Sr. V.P. Legal Affairs  
Greyhound Lines, Inc.

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# Appendix E



October 19, 2018

Mr. Ben Stuckart  
President, Spokane City Council  
808 W. Spokane Falls Blvd.  
Spokane, WA 99201-3335

RE: City of Spokane proposed ordinance

Dear Mr. Stuckart:

Thank you for your letter of October 10, 2018 inviting Greyhound Lines, Inc. ("Greyhound") to comment on your proposed ordinance and resolution. Greyhound supports the action proposed by the City.

Regarding the language, Greyhound's only comment is about the definition of individuals who have tickets and would thus be allowed into the facility. The language is currently drafted to define as a nonpublic area one which only allows individuals with a ticket from "a city employee or an employee of a tenant." Greyhound suggests that this definition be reworded to include any individual who holds a valid ticket (no matter how they acquired the ticket). Limiting it to tickets from the city or city tenants is probably too restrictive.

Thank you for this opportunity. Please let us know if you would like to discuss this further.

Sincerely,  
GREYHOUND LINES, INC., a  
division of First Group America

Tricia A. Martinez  
Sr. V.P. Legal Affairs