

## Briefing Paper Public Safety

<b>Division &amp; Department:</b>	City Council
<b>Subject:</b>	Federal Civil Immigration Enforcement on City Property
<b>Date:</b>	October 1, 2018
<b>Contact (email &amp; phone):</b>	509-625-6269 amcdaniel@spokanecity.org
<b>City Council Sponsor:</b>	Breean Beggs/Ben Stuckart
<b>Executive Sponsor:</b>	None
<b>Committee(s) Impacted:</b>	Public Safety; Finance & Administration
<b>Type of Agenda item:</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget , Comp Plan, Policy, Charter, Strategic Plan)	<a href="#">Fourth Amendment to the United States Constitution</a> <a href="#">Tenth Amendment to the United States Constitution</a> <a href="#">8 C.F.R. § 287.8(f)(2)</a> <a href="#">8 U.S.C. § 1226</a> <a href="#">8 U.S.C. § 1231</a> <a href="#">8 U.S.C. § 1324</a> <a href="#">8 U.S.C. § 1357</a> <a href="#">8 U.S.C. § 1373</a> <a href="#">Article XI, Section 10 of the Washington State Constitution</a> <a href="#">Executive Order 17-01 Office of the Governor, State of Washington</a> <a href="#">Guidance Concerning Immigration Enforcement from the Washington State Office of the Attorney General</a> <a href="#">RCW 35.22.280 – Specific Powers Enumerated</a> <a href="#">RCW 35.22.195 – Powers of Cities Adopting Charters</a> <a href="#">Spokane Municipal Code 18.01. – Law Against Discrimination</a> <a href="#">Spokane Municipal Code 18.07.010 – Bias-Free Policing</a> <a href="#">Spokane Municipal Code 18.07.020 – Immigration Status Information</a> <a href="#">Spokane City Charter Section 3: Powers, Rights and Liabilities</a> <a href="#">Spokane Police Policy 428 – Immigration Violations</a> OPR 1994-0890 – Greyhound Line Lease with City of Spokane OPR 1994-0837 – Amtrak Lease with City of Spokane OPR 2017-0299 – Parking Meter Revenue Fund Lease with City of Spokane OPR 2016-0282 – Spokane Regional Transportation Management Center Lease with City of Spokane OPR 2016-0570 – Contract with Goodale & Barbieri Company for property management services at the Spokane Intermodal Facility <a href="#">#Spokind</a> – City of Spokane Mayor’s Initiative
<b>Strategic Initiative:</b>	Our Most Vulnerable; Transportation Choices
<b>Deadline:</b>	Will file for final reading on October 22, 2018
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	N/A
<b>Background/History:</b>	
The City of Spokane owns the property at 221 West 1 <sup>st</sup> Avenue known as the Spokane Intermodal Facility.	



Figure 1 Photo from Wikipedia

This facility houses the Spokane Police Department’s Downtown Precinct, National Railroad Passenger Corporation ([Amtrak](#)), [Greyhound Lines Inc.](#) (including Northwest Stage Lines/[Northwestern Trailways](#)), [Spokane Regional Transportation Management Center](#)<sup>1</sup>, City of Spokane Parking Services, and other sublease holders. This city property is currently managed by the [Goodale & Barbieri Company](#). Space is currently available for lease at the facility.

Since the start of 2013, U.S. Customs and Border Patrol (CBP) agents have apprehended an estimated 200 people at the Spokane Intermodal Facility (Sokol, Protesters decry Border Patrol activity at Spokane Intermodal Center, 2018) through what the agency claims as “routine immigration check operations of *all* passengers at the terminal” (U.S. Customs and Border Protection, 2018). CBP took 34 people into custody in 2017 during immigration enforcement operations at the Spokane Intermodal Facility (Hanrahan, 2018). The federal civil immigration enforcement operations taking place at the Spokane Intermodal Facility lack judicial warrants.

A coalition of community organizations and advocates including World Relief Spokane, Hispanic, Business Professional Association, Center for Justice, Spokane NAACP, Spokane Immigrant Rights Coalition, and the ACLU of Washington have requested the City of Spokane review and enact policies that ensure people living or visiting Spokane don’t have to travel in fear of interrogation by federal immigration authorities.<sup>2</sup>

Most apprehensions and detainments from the “routine immigration checks” by CBP at the Spokane Intermodal Facility take place on Greyhound buses parked on the City-owned bus platform awaiting departure from the facility. The bus platform is a restricted area of the facility. Individuals who are detained are interrogated in an “Employee Area” inaccessible to the public. CBP agents also utilize this locked area while waiting for the bus to arrive.<sup>3</sup>

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<sup>1</sup> Spokane Regional Transportation Council (SRTC) is no longer in the Spokane Intermodal Facility. The computer control system remains in a small portion of the third floor.

<sup>2</sup> Letter to Mayor David Condon & Spokane City Council, September 21, 2018

<sup>3</sup> David Brookbank, August 4, 2018



Figure 2 Photo by David Brookbank

The typical Seattle or west-bound Greyhound bus departs the Spokane Intermodal Facility at 8:45 a.m., 11:35 a.m., and 6:35 p.m. The first stop of the west-bound Greyhound is in Adams County followed by a stop in Grant County. Both Adams and Grant Counties have significant Hispanic populations.<sup>4</sup> The typical south-bound Greyhound bus departs at 11:35 a.m. with a first stop in Pasco, a city with a majority Hispanic population.<sup>5</sup> The Spokane Intermodal Facility serves as a major stop for most Greyhound buses originating in the Northwest.<sup>6</sup>



Figure 3 Photo by Jennyfer Mesa

<sup>4</sup> Adams County 66%; Grant County 42% - OFM

<sup>5</sup> 2010 United States Census

<sup>6</sup> For example: A bus departing Portland Oregon will make stops in Pasco and in Spokane.

Although Greyhound has repeatedly stated that they do not support these operations by CBP (and “is not happy about them”), the company contends that they are obligated to consent to the operations until Congress or the courts clarify federal law. The American Civil Liberties Union (ACLU) disagrees with Greyhound’s position. In a letter to Greyhound in March of 2018, the ACLU wrote, “Greyhound has a Fourth Amendment right to deny CBP permission to board and search its buses without a judicial warrant.”<sup>7</sup> Greyhound, in a letter to Spokane City Council President Ben Stuckart dated June 26, 2018, stated “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...”<sup>8</sup>

Witnesses to CBP’s warrantless civil immigration enforcement operations at the Spokane Intermodal Facility have provided conflicting accounts about the nature of these operations. According to one witness, CBP agents “only spent time questioning individuals that had darker skin or had an accent.”<sup>9</sup> A local Spokane County Public Defender witnessed foreign exchange students “harassed” for not carrying identification.<sup>10</sup> CBP immigration enforcement activities based on race or ethnicity are a clear violation of Department of Homeland Security policy.<sup>11</sup> Department of Homeland Security policy explicitly states law enforcement officers must rely on “specific and trustworthy information to make law enforcement decisions” (U.S. Customs and Border Protection, n.d.).

Although the Border Patrol activity away from the border has risen under the Trump Administration (Nixon, 2018), the actual number of apprehensions in the Spokane sector has gone down (Hanrahan, 2018). City of Spokane staff<sup>12</sup> learned in a meeting with CBP Spokane sector leadership on May of 2018 that CBP would be increasing their presence in Spokane by adding 30 additional agents. The increase in CBP agents in the Spokane station comes at the same time the agency is substantially reducing operational U.S. – Canada border crossing hours in Danville and Metaline Falls (Deshais, Hours to be curtailed at Danville, Metaline Falls border crossings, 2015).

The City of Spokane recently ended plans to establish an integrated social services center at the Spokane Intermodal Facility due to concerns over increased CBP presence at the facility. Members of the Spokane City Council determined that federal civil immigration enforcement operations in the facility would have a detrimental impact on the City’s ability to offer equal access to critical social services (Walters, 2018).

The inability to utilize the Spokane Intermodal Facility for critical city services is leading to a significant financial impact for taxpayers. The City is currently looking to lease a property for the integrated service center at an estimated annual cost of \$250,000 to taxpayers.<sup>13</sup> Other community organizations have refused to consider leasing the facility due to these immigration enforcement operations. Community members are actively encouraging residents, particularly Latino residents, to avoid the Intermodal Center (Walters, 2018).

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<sup>7</sup> ACLU Letter Re: Immigration Raids on Greyhound Buses

<sup>8</sup> Greyhound Letter Re: Greyhound’s compliance with Spokane’s Human Rights law, June 26, 2018

<sup>9</sup> Ava Sharifi statement to Spokane City Council, March 25, 2018.

<sup>10</sup> Letter from Christopher A. Mellon, June 3, 2018

<sup>11</sup> Secretary Napolitano Memorandum for Component Heads, April 26, 2013.

<sup>12</sup> Mike Ormsby (City Attorney), Dawn Kinder (Neighborhood & Business Services), Kelley Keenan (Community, Housing, & Human Services), Alex Reynolds (Integrated Social Service Project Manager), Brian McClatchey (City Council), Adam McDaniel (City Council), & Jake Fraley (City Council)

<sup>13</sup> Kelly Keenan, Director of Community, Housing, & Human Services



Figure 4 Intermodal Facility access to Amtrak

**Federal law requires Department of Homeland Security employees involved in immigration enforcement operations to have a warrant or consent of the building owner to enter non-public areas of facilities<sup>14</sup>.**

The Spokane Intermodal Facility has several restricted areas inaccessible to the general public including the Greyhound ticket offices and bus platform, Amtrak platform, and the Spokane Police Department Downtown Precinct office. The entire third floor of the facility requires elevator keycard access. Ashley Loveless, Commercial Property Manager for Goodale & Barbieri, calls the building “a conduit for commercial enterprise (paying customers of Greyhound and Amtrak).” In fact, protestors at the Spokane Intermodal Facility were recently prohibited from using drinking fountains and bathrooms because they were not paying customers.<sup>15</sup> Greyhound employees prohibited Spokane citizens from the Spokane Intermodal Facility for handing out information regarding the legal rights of individuals travelling by bus and train.<sup>16</sup> This indicates that both the property manager for the Spokane Intermodal Facility, Spokane Police Department and Greyhound employees assume most of the Spokane Intermodal Facility to be a non-public area. Therefore, immigration officers require consent of the building owner (or “person in control”) or a judicial warrant to conduct federal civil immigration operations in non-public areas of the Spokane Intermodal Facility.

Executive Summary:

This ordinance:

- States the intention of the City of Spokane to protect and ensure the Fourth Amendment rights afforded to all persons under the U.S. Constitution in accordance with all state and federal laws.
- Requires that City of Spokane employees and agents of the City of Spokane require a judicial warrant (per 8 C.F.R. § 287.8(f)(2)) prior to *any* agency or individual conducting federal civil immigration enforcement operations in non-public/restricted areas of City of Spokane property.

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<sup>14</sup> 8 C.F.R. § 287.8(f)(2)

<sup>15</sup> Email from Kevin King, August 23, 2018

<sup>16</sup> Email from Doug Huigen, September 6, 2018; Email from Nicole Herrera, September 12, 2018; Email from Cam Zorrozuza, September 27, 2018

- Establishes the Mayor as the only official that can grant access/consent to an agency or individual for the purposes of conducting federal civil immigration enforcement operations in non-public/restricted areas of the City of Spokane property.
- Establishes the authority of the Spokane City Council to designate portions of City of Spokane property as non-public/restricted areas for purposes of employee and resident safety, inaccessibility, security of City of Spokane assets, and for the implementation of Chapter 12.05 (General City Property).

Budget Impact:

TOTAL COST: NONE

Approved in current year budget?  Yes  No  N/A

Annual/Reoccurring expenditure?  Yes  No  N/A

If new, specify funding source:

Other budget impacts: (revenue generating, match requirements, etc.)

Operations Impact:

Consistent with current operations/policy?  Yes  No  N/A

Requires change in current operations/policy?  Yes  No  N/A

Specify changes required: Known challenges/barriers: None

## Resources

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