

Concord Coach Lines violates passengers' rights by allowing immigration searches, ACLU says

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As immigration agents in major U.S. cities have increased efforts to deport undocumented immigrants, civil rights organizations have ramped up efforts to remind private transportation organizations that complicity in such efforts violates individual civil rights.

This week, American Civil Liberties Union (ACLU) chapters in Maine, New Hampshire and Vermont urged Concord Coach Lines to reconsider their policy to allow immigration officers to conduct warrantless searches on railway cars, buses and conveyance vehicles.

The ACLU sent a letter to Concord Coach Lines Monday urging them to refuse to let immigration officials aboard, arguing that warrantless searches violate passengers' Fourth Amendment rights.

Since then, in response to a public records request filed by the ACLU of Maine, CBP turned over training documents that concede Customs and Border Protection (CBP) agents usually require consent to search or question bus passengers without a warrant.

A statement from the ACLU read: "In light of the newly released public records, it is clearer than ever that Concord Coach Lines has a *choice* to continue to allow immigration agents to board buses and search. Choosing to consent to these bus raids jeopardizes [Concord's] paying passengers' Fourth Amendment rights."

"We don't live in a 'show me your papers' society, and people shouldn't have to prove their citizenship every time they want to ride the bus. Concord should protect its customers and tell CBP to get a warrant," said Emily Bond, staff attorney with the ACLU of Maine.

A spokesperson from Concord Coach Lines said that the company has put posters up at all their bus stations and added a section to their website to inform passengers of their individual rights, but have no plans to refuse access to CBP.

"Denying a federal law enforcement agent access to our buses, or putting our staff in a position of determining whether that agent's burden of proof has been met, is not something Concord Coach Lines or any other intercity bus carrier that we are aware of, is willing to do under current legal guidance," said Ben Blunt of Concord Coach Lines.

A question of distance

Border patrol agents are allowed to establish checkpoints within a “reasonable distance” of the border. What determines a reasonable distance is in dispute.

CBP has claimed the authority to question people within 100 miles of any national or coastal border, a region which encompasses the entirety of Maine and New Hampshire.

Applied nationwide, the 100-mile zone covers 65 percent of the U.S. residential population and roughly 75 percent of the U.S. Hispanic population, according to [a study](#) by Will Lowe, a data scientist at the Massachusetts Institute of Technology.

Last week, Senators Patrick Leahy, D-Vermont, and Patty Murray, D-Washington, [reintroduced legislation](#) to curtail warrantless vehicle stops and property searches away from the border. The legislation would reduce the zone within which the Department of Homeland Security (DHS) may make vehicle stops from 100 miles to 25 miles from the border. Rep. Peter Welch, D-Vermont, sponsored an identical bill in the House.

Your rights during questioning

As civil rights lawyers point out, individuals who are questioned by border patrol agents outside of ports of entry are in many cases within their rights to refuse to answer questions.

According to an internal CBP document that was shared with the BDN and dated January 25, 2018, concerning standard operating procedures for encountering “noncompliant motorists” at checkpoints, “the fact that someone is refusing to answer questions or is being otherwise passively noncompliant, absent exigent circumstances, does not equate to a violation of the law.”

In May of 2018, the ACLU of Maine filed a lawsuit against CBP and DHS, charging that the agencies ignored a Freedom Of Information Act request for public records made in January about investigations into the citizenship status of bus passengers in Maine.

In September, the ACLU wrote a similar letter to Greyhound, asking them to refuse consent to CBP agents.

CBP officials told the BDN that the current law states that such searches are legal.

“The Immigration and Nationality Act 287(a)(3) and 8 USC 1357 state that Immigration Officers, without a warrant, may ‘within a reasonable distance from any external boundary of the United States...board and search for aliens in any vessel within the territorial waters of the United States and any railcar, aircraft, conveyance, or vehicle’,” said a CBP spokesperson.

But according to a 2012 [document published](#) by the American Immigration Council, a nonprofit founded in Washington, D.C. in 1987, border patrol agents must have a “reasonable suspicion of unlawful activity” before conducting a search. A person’s ethnicity is not sufficient to establish reasonable suspicion.

“Pulling over a vehicle solely on the basis of an occupant’s race is an ‘egregious’ Fourth Amendment violation,” the document states.

Civil rights advocates argue that the immigration policy has given border patrol agents license to treat the 100-mile radius as a “ Constitution-free zone.”

“The entire CBP internal checkpoint/stop charade has zero deterrent value vis a vis illegal immigration but violates the rights of U.S. persons on virtually a daily basis,” said Patrick Eddington, Research Fellow at the Cato Institute, a libertarian think tank.

Last week, an immigration enforcement operation by Immigration and Customs Enforcement (ICE) that targeted more than 2,000 undocumented immigrants for arrest and deportation nationwide resulted in 35 arrests.