

# CROSSING THE LINE:

## BORDER PATROL AND LOCAL LAW ENFORCEMENT PRACTICES IN NEW YORK

U.S. Border Patrol coordinates with local law enforcement across large swaths of New York, well beyond the border itself. This coordination is not principally concerned with people crossing the border, but rather immigrant residents who live and work in New York: families driving to dinner, farmworkers going to the grocery store, and people getting a ride to work.

For immigrant communities across the state, a routine traffic stop or interaction with local police can raise fears of detention, deportation, and family separation.

As part of ongoing research into coordination happening between immigration authorities and local law enforcement, the New York Civil Liberties Union issued public records requests to U.S. Customs and Border Patrol and local law enforcement agencies. This brief provides an analysis of patterns the NYCLU observed from reviewing reports from over 200 Border Patrol stops between November 2016 and March 2017 in the five counties that constitute Border Patrol's Swanton Sector – Clinton, Essex, Franklin, St. Lawrence and Herkimer. It also draws from police reports between 2015 and mid-2018 that resulted in contact with immigration authorities in localities where the NYCLU heard such coordination was occurring – the towns and villages of Attica, Hamburg, Perry, and Johnson City, and the counties of Niagara, Ontario, and Wyoming.

The following snapshot shows that local law enforcement agencies across upstate New York have regularly – and often unlawfully – assisted Border Patrol in apprehending people for federal civil immigration offenses, and shows the improper role that race and ethnicity have played in enforcement.

### KEY FINDINGS

**Local law enforcement has frequently held people for Border Patrol, despite having no legal authority to detain people for civil immigration violations.**<sup>1</sup> In several instances in the records, police or sheriffs even unlawfully transported individuals who were not suspected of crimes to the police station to await the arrival of Border Patrol.<sup>2</sup>

**Local law enforcement has often held drivers and passengers who lacked licenses or who presented foreign identification so that Border Patrol could detain them.**<sup>3</sup> In one case, a sheriff responding to an accident called an ambulance to help an injured driver, and then upon learning he did not have a driver's license, also called Border Patrol to report him.<sup>4</sup>



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1 A state appellate court recently confirmed in a binding, state-wide decision in the NYCLU's case *Francis v. DeMarco*, that state and local law enforcement do not have the authority to detain people for immigration violations. The New York Attorney General has long agreed. Yet there were dozens of incidents in the documents where local police or sheriffs called Border Patrol during traffic stops when they suspected or confirmed that the subject did not have valid documentation.

2 [FOIL000136-137](#), 8/30/2018; [FOIL000144-145](#), 1/30/2018; [FOIL000003-4](#), 3/28/2018; [FOIL000009-11](#), 12/23/2016

3 [FOIL000051-53](#), 2/11/2016; [FOIL000033-35](#), 6/14/2015

4 [FOIL000005-6](#), 3/3/2015

**During traffic stops that normally result in a warning or ticket, local law enforcement has called Border Patrol for translation assistance, resulting in Border Patrol detaining undocumented drivers or passengers.** Local sheriffs and police called Border Patrol for assistance with translation after pulling people over for failure to wear a seatbelt, a broken head light, and using a cell phone while driving. These traffic stops often resulted in Border Patrol detaining all the occupants of the car.<sup>5</sup>

**Police and sheriffs have stopped people suspected of no crime simply because they looked Latino, then called Border Patrol on the suspicion the individuals lacked valid immigration status.**

- In one case, local sheriffs arriving at a house in response to a 911 call in Spanish detained six Latino men they presumed to be of Mexican descent and in the country illegally, and called Border Patrol to pick them up.<sup>6</sup>
- During a traffic stop, local police detained two backseat passengers who they said appeared Hispanic, to await Border Patrol despite the fact that the driver and the owner both presented valid driver's licenses.<sup>7</sup>

**Race also often appears to have been a factor in whom Border Patrol decided to both stop and detain.**<sup>8</sup> The majority of people stopped by Border Patrol in the records we received (approx. 86 percent) were people of color.<sup>9</sup> Individual records demonstrate race playing a problematic role in whom Border Patrol stopped:

- In two instances, Border Patrol agents detained Latino farmworkers in a Walmart parking lot after profiling them for likely being undocumented.<sup>10</sup>
- An anonymous phone tip about "Middle-Eastern-looking men" led Border Patrol agents to question two men from Sri Lanka who had asylum status in the U.S.<sup>11</sup>
- In one case, Border Patrol records identified a man from China as "YEL" for yellow, an antiquated and offensive racial classification.<sup>12</sup>

**The documents reveal an uptick in people detained heading into, rather than from, Canada at the start of the Trump administration.**

- Border Patrol stopped more people going to Canada than coming from Canada in February and March of 2017, the last months for which we received Border Patrol documents. In March 2017, records show Border Patrol stopping 33 people heading to Canada and only one coming from Canada to the U.S.
- Many of those detained on their way to Canada were seeking asylum there, and some had applied for and been denied asylum in the U.S.<sup>13</sup>

**The records show that most people Border Patrol stopped in upstate New York during this period appear to have been living in the U.S. for well over a year.**

- Of the 128 incident reports that had data on the length of time the person had been in the U.S., 77 reported that the person stopped had been in the U.S. for more than one year.
- At least two people Border Patrol detained had been in the U.S. for over 10 years. One person had been denied asylum in the U.S. and was headed to Canada, and the other was a young man eligible for DACA.<sup>14</sup>

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5 [FOIL000060-63](#) 3/28/2016, [FOIL000103-105](#) 10/1/2017, [FOIA 3754-57](#), 12/25/2016

6 [FOIL000007-8](#), 10/24/2016

7 [FOIL000144-145](#) 1/30/2018

8 The NYCLU has long been concerned about Border Patrol's engagement in racial profiling, and documented this issue in a 2011 report about Border Patrol stops on buses and trains in New York. See: Justice Derailed: What Raids on Trains and Buses Reveal about Border Patrol's Interior Enforcement Practices (2011). <https://www.nyclu.org/en/publications/report-justice-derailed-what-raids-trains-and-buses-reveal-about-border-patrols>

9 We calculated these statistics assuming that those with "complexions" identified by Border Patrol as "LGT" or "FAR" were read as white and those identified as "BLK," "DRK," "DBR," "MED," and "LBR" were perceived to be people of color.

10 [FOIL000012](#), 5/28/2018 and [FOIA 4227-4230](#), 11/03/2016

11 [FOIA 3371-3374](#), 2/5/2017

12 [FOIA 3422-3424](#), 12/13/2016

13 [FOIA 4156-4159](#), 3/15/2017; [FOIA 4041-4044](#), 2/24/2017; [FOIA 4102-4105](#), 3/5/2017

14 [FOIA 4102-4105](#), 3/5/2017; [FOIA 4106-4108](#), 3/5/2017