

# THE NEW YORK TIMES

August 29, 2010

## Border Sweeps in North Reach Miles Into U.S.

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ROCHESTER — The [Lake Shore Limited](#) runs between Chicago and New York City without crossing the Canadian border. But when it stops at Amtrak stations in western New York State, armed [Border Patrol](#) agents routinely board the train, question passengers about their citizenship and take away noncitizens who cannot produce satisfactory [immigration](#) papers.

“Are you a U.S. citizen?” agents asked one recent morning, moving through a Rochester-bound train full of dozing passengers at a station outside Buffalo. “What country were you born in?”

When the answer came back, “the U.S.,” they moved on. But Ruth Fernandez, 60, a naturalized citizen born in Ecuador, was asked for identification. And though she was only traveling home to New York City from her sister’s in Ohio, she had made sure to carry her American passport. On earlier trips, she said, agents had photographed her, and taken away a nervous Hispanic man.

He was one of hundreds of passengers taken to detention each year from domestic trains and buses along the nation’s northern border. The little-publicized transportation checks are the result of the Border Patrol’s growth since 9/11, fueled by Congressional antiterrorism spending and an expanding definition of border jurisdiction. In the Rochester area, where the border is miles away in the middle of Lake Ontario, the patrol arrested 2,788 passengers from October 2005 through last September.

The checks are “a vital component to our overall border security efforts” to prevent terrorism and illegal entry, said Rafael Lemaitre, a spokesman for [United States Customs and Border Protection](#). He said that the patrol had jurisdiction to enforce immigration laws within 100 miles of the border, and that one mission was preventing smugglers and human traffickers from exploiting inland transit hubs.

The patrol says that answering agents’ questions is voluntary, part of a “consensual and nonintrusive conversation” Some passengers agree, though they are not told that they can keep silent. But others, from immigration lawyers and university officials to American-born travelers startled by an agent’s flashlight in their eyes, say the practice is coercive, unconstitutional and tainted by racial profiling.

The Lake Shore Limited route is a journey across the spectrum of public attitudes toward illegal immigrants — from cities where they have been accepted and often treated as future citizens, to places where they are seen as lawbreakers the federal government is doing too little to expel.

The journey also highlights conflicting enforcement policies. Immigration authorities, vowing to concentrate resources on deporting immigrants with serious criminal convictions, have recently been halting the [deportation of students](#) who were brought to the country as children without papers — a group the Obama administration favors for legalization.

But some of the same kinds of students are being jailed by the patrol, like a Taiwan-born Ph.D. candidate who had excelled in New York City public schools since age 11. Two days after he gave a paper on Chaucer at a conference in Chicago last year, he was taken from his train seat and strip-searched at a detention center in Batavia, N.Y., facing deportation for an expired visa.

For some, the patrol's practices evoke the same fears as a new immigration law in Arizona — that anyone, anytime, can be interrogated without cause.

The federal government is authorized to do just that at places where people enter and leave the country, and at a “reasonable distance” from the border. But as the patrol expands and tries to raise falling arrest numbers, critics say, the concept of the border is becoming more fluid, eroding Constitutional limits on search and seizure. And unlike Arizona's law, the change is happening without public debate.

“It's turned into a police state on the northern border,” said [Cary M. Jensen](#), director of international services for the University of Rochester, whose foreign students, scholars and parents have been questioned and jailed, often because the patrol did not recognize their legal status. “It's essentially become an internal document check.”

Domestic transportation checks are not mentioned in a report on the northern border strategy that [Customs and Border Protection](#) delivered last year to Congress, which has more than doubled the patrol since 2006, to 2,212 agents, with plans to double it again soon. The data available suggests that such stops account for as many as half the reported 6,000 arrests a year.

In Rochester, the Border Patrol station opened in 2004, with four agents to screen passengers of a new ferry from Toronto. The ferry went bankrupt, but the unit has since grown tenfold; its agents have one of the highest arrest rates on the northern border — 1,040 people in the 2008 fiscal year, 95 percent of them from buses and trains — though officials say numbers have fallen as word of the patrols reached immigrant communities.

“Our mission is to defend the homeland, primarily against terrorists and terrorist weapons,” said Thomas Pocarobba Jr., the agent in charge of the Rochester station, one of 55 between Washington State and Maine. “We still do our traditional mission, which is to enforce the nation's immigration laws.”

Legal scholars say the government's border authority, which extends to fixed checkpoints intercepting cross-border traffic, cannot be broadly applied to roving patrols in a swath of territory. But such authority is not needed to ask questions if people can refuse to answer. The patrol does not track how many people decline, Mr. Pocarobba said.

Asked if agents could question people in Times Square, which like most of the nation's population centers is [within 100 miles](#) of international waters, Mr. Pocarobba replied, "Technically, we can, but we don't." He added, "Our job is strictly cross-border."

Lawyers challenging the stops in several deportation cases questioned the rationale that they were aimed at border traffic. Government data obtained in litigation shows that at least three-quarters of those arrested since 2006 had been in the country more than a year.

Though many Americans may welcome such arrests, the patrol's costly expansion was based on a bipartisan consensus about border security, not [interiorencement to sweep up farmworkers and students](#), said Nancy Morawetz, who directs the immigration rights clinic at New York University.

One case she is challenging involves a Nassau County high school graduate taken from the Lake Shore Limited in Rochester in 2007. The government says the graduate, then 21, voluntarily produced a Guatemalan passport and could not prove she was in the country legally. A database later showed she had an expired visitor's visa.

Unlike a criminal arrest, such detentions come with few due process protections. The woman was held at a county jail, then transferred across the country while her mother, a house cleaner, and a high school teacher tried to reach her. The woman first saw an immigration judge more than three weeks after her arrest. He halved the \$10,000 bail set by the patrol, and she was eventually released at night at a rural Texas gas station.

"I was shocked," said the teacher, Susanne Marcus, who said her former student had been awarded a \$2,000 college scholarship.

Another challenge is pending in the 2009 train arrest of the Taiwan-born doctoral student, who had to answer the agent after being singled out for intense questioning because of his "Asian appearance," he said. His account was corroborated in an affidavit filed this month by another passenger.

Similar complaints have been made by others, including a Chicago couple who encountered the patrol on a train to Poughkeepsie, N.Y., for the woman's graduation from Vassar College.

"At least in Arizona, you have to be doing something wrong to be stopped," said the woman, a citizen of Chinese-American descent who said her Mexican boyfriend was sleeping when an agent started questioning him. "Here, you're sitting on the train asleep and if you don't look like a U.S. citizen, it's 'Wake up!' "

Mr. Pocorobba denied that agents used racial profiling; the proof, he said, was that those arrested had come from 96 countries. Agents say they often act on suspicion, prompted by a passenger's demeanor. Of those detained, most were in the country illegally — including the Mexican, 24, who admitted that he had sneaked across the southern border at 16 to find his father. Others were supposed to be carrying their papers, like a Pakistani college student detained for two weeks before authorities confirmed that he was a legal resident.

Some American-born passengers welcome the patrol. "It makes me feel safe," volunteered Katie Miller, 34, who was riding Amtrak to New York from Ohio. "I don't mind being monitored."

To others, it evokes travel through the old Communist bloc. "I was actually woken up with a flashlight in my face," recalled Mike Santomauro, 27, a law student who encountered the patrol in April, at 2 a.m. on a train in Rochester.

Across the aisle, he said, six agents grilled a student with a computer who had only an electronic version of his immigration documents. Through the window, Mr. Santomauro said, he could see three black passengers, standing with arms raised beside a Border Patrol van.

"As a citizen I'm offended," he said. But he added, "To say I didn't want to answer didn't seem a viable option."