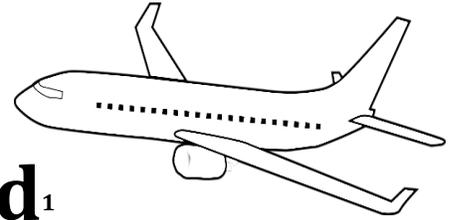


Know Your Rights When Traveling Abroad¹



Chinese Americans have been and continue to be unfairly scrutinized when traveling abroad. At the border, the United States (U.S.) government has broad authority to stop and search travelers, even if there is no reason to think the person did anything wrong. Fortunately, we have rights at the border; this guide is designed to help you learn what they are and learn how to use them.

1. Entering or Leaving the U.S.

U.S. Customs and Border Protection (CBP) has the authority to ask about your immigration status when you are leaving or entering the U.S.

If you are a:

- **U.S. citizen-** You have an absolute right to enter the U.S. and cannot be denied entry into the U.S. if you present a valid proof of citizenship. Showing an unexpired U.S. passport is normally sufficient.
- **Lawful permanent resident (“green card” holder)-** CBP normally cannot refuse entry upon your showing a valid green card as long as the trip abroad was brief (usually 6 months or less) and innocent (which usually means no criminal issues). If you are out of the country longer than 6 months or you have a criminal issue, you may be subjected to deportation.
- **Visa holders-** If you have valid visa or travel documents to enter the U.S., you may be questioned and inspected at the border.² If they find that you are not seeking to enter the U.S. for the purpose of your visa, or if there is a visa violation, they can refuse your entry into the U.S.

2. Searches and Seizures of Electronic Devices

Generally, CBP officers may stop, detain, and search any person or item at the border.

Officers can search through and seize your electronic devices such as cell phones, laptops, cameras, and other electronic devices, even if there is nothing suspicious about you or your luggage and no evidence of wrongdoing. Your information can be used to investigate you or be stored even if you have done nothing wrong.

¹ This advisory is intended as a general reference only; it does **not** constitute legal advice, nor does it establish an attorney-client relationship. For specific questions, please contact Advancing Justice-Asian Law Caucus to speak with an attorney.

² The “border” means the physical line between countries, but also international ports of entry, such as international airports, even if they are in the middle of the U.S.

Once it is clear that a border agent is going to search your device or other possessions, do not take any steps to destroy data or otherwise obstruct that process. Interfering with a border agent's investigation is a serious crime. If an officer searches and/or confiscates your laptop or cell phone, write down his or her name, badge number and title. If your device is confiscated, get a receipt for your property. Contact an attorney for advice about next steps (information about free legal services below).

Officers have in the past asked travelers for their passcodes to electronic devices such as cell phones or laptops, for assistance unlocking devices, or for passwords to online accounts or social media. Border agents cannot force you to unlock your phone or laptop or provide social media information. However, refusal might lead to delay, lengthy questioning, and/or officers seizing your device for further inspection if you are a U.S. citizen, and if you are not a U.S. citizen, you could be denied entry.



Before traveling abroad, you can take practical steps to protect your information and privacy:

Talk to your employer: For work devices or devices that contain work-related information, talk to your employer about security issues before traveling, and ensure you are protecting your information and any sensitive data properly and not violating any of your employer's rules by carrying information abroad.

Minimize the amount of data you carry: The best way to ensure privacy of your work or personal information, such as research data or information about your family and friends, is to leave it at home or work. Any data you carry could be subject to search and seizure.

- Consider using a temporary device- If it is possible to bring a temporary cell phone or laptop specifically for travel, you can avoid bringing information you do not need for your trip. This can also prevent hacking or theft of your data.
- Back up the information on your device and then delete it- You can back up your information in various ways and then delete it from your devices before crossing the border to minimize the amount of data you carry when passing through customs. If you use a cloud service to back up your work, once you arrive at your destination, you can then download the backup and restore the data onto the device. When crossing the border, we recommend you turn off your device, or if you cannot turn it off, put it in airplane mode.
- Note- It can be difficult to completely delete data from your devices—if agents seize and subject your devices to forensic examination, they could recover information you thought you deleted that still exists on your device. Taking a travel device avoids this

How to protect the information you do carry:

- *Back Up*- It is always wise to have backup of your electronic data. If your devices are seized, stolen, or broken in your travels, you will still have access to your data.
- *Encrypt*- Encrypting data can prevent unauthorized access to your technology. Ensure that the screen lock on your device is set to the **most protective setting available**.
- *Strong passwords and passcodes*- Creating strong passwords is critical for encryption and preventing unwanted access to your personal information. Using your fingerprint as a form of security is **not** a recommended method.
- *Power off your devices*- We recommend completely powering down your laptops and phones when crossing the border. This protects against techniques that could potentially bypass the screen lock on a powered-on device to access your information. If you must leave your phone on, put it on airplane mode.



For more information on searches and seizures of electronic devices, digital security, and how to use encryption and strong passwords, see the Electronic Frontier Foundation's guide: <https://www.eff.org/wp/digital-privacy-us-border-2017>

Social Media:

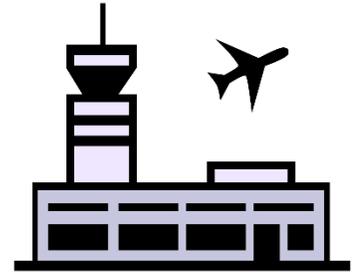
In the past, border agents have scrutinized travelers' social media profiles as they pass through the border. In February of 2017, CBP proposed a policy to ask certain visa holders from China for social media handles before entering the U.S. The current state of this decision is unclear. In June 2017, U.S. embassies started implementing invasive national security related vetting procedures in the visa application process, including asking for social media information and extensive travel history for certain applicants.

Given that social media can contain an immense amount of personal, political, religious, and other information, as well as access to your social networks, it is recommended for you to have the strongest privacy settings possible on your social media platforms. Before traveling you can log out of all your accounts and remove saved login credentials. You can also temporarily uninstall mobile apps (email, Facebook, Twitter, WeChat). In general, refrain from "friending" any people you do not know personally.

3. Going through Customs:

There are two stages of inspection at the airport: primary and secondary. Everyone goes through primary inspection, where you go up to the CBP agent and show your passport and any immigration paperwork. Some individuals may be pulled aside for further questioning upon entry to the U.S. (usually in a different room and by a different agent).

During this longer interview, called secondary inspection, customs officers have asked individuals intrusive questions (such as for information about their relatives and their livelihoods, their life in the U.S., their ties to China, and their religious and political views).



U.S. citizens do not have to answer questions outside the scope of immigration status/presenting a valid passport and basic customs questions, but refusing to answer them may lead to delay.

For example, an agent CAN ask you:

- Questions to confirm you are who you say you are, what countries you visited, why you went to specific countries, and how much money you are taking/returning with.

An agent SHOULD NOT ask you:

- About your religion, your politics, or other irrelevant and inappropriate questions of this nature. If this happens, politely ask for a supervisor and try to remember the agent's name, badge number, and the questions you were asked. The U.S. Constitution prohibits searches or questioning solely because of your national origin, ethnicity, race, religion, political beliefs, or gender.

Green card holders (LPRs) have a lot of protections, but not as much as U.S. citizens. CBP can ask questions about your immigration status and routine questions about whether or not your trip was brief and innocent (see above). However, green card holders (LPRs) are not required to answer broader and intrusive questions (see above).

Visa holders have the least amount of protection, particularly non-immigrant visa holders. CBP can ask a range of questions to confirm: your identity; that you are coming to the U.S. for a legitimate reason; that you are not breaking the law by entering; and other related questions. Unfortunately, visa holders can be denied entry for not answering questions. Before you step off your flight, make sure to review your immigration paperwork so that your answers to the CBP agent match the information on your application.

When you are at the border, agents may ask routine question you about your travels. Here are some general tips:

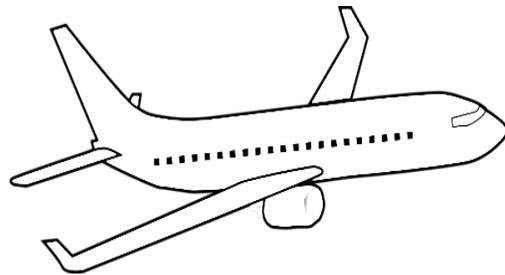
- Be Honest. Never lie to a border agent. Lying, obstructing, or even making a mistake related to the details of your travel can be considered a serious crime, even if it is by accident.
- It is in your interest to be courteous to agents at all times during the border inspection process.
- Do not sign any documents you do not fully understand. This is important for ensuring you are not signing away your rights or immigration status.

For all travelers, regardless of your immigration status, if a CBP officer asks questions beyond the scope of routine travels (such as questions about political beliefs, religious practices, or questions about family and community), you can ask to speak with a supervisor. You can also ask for the name and badge number of the CBP officer to file a complaint with U.S. Department of Homeland Security's Office of Civil Rights & Civil Liberties. [Contact us for assistance.](#)

You are not entitled to an attorney during primary or secondary inspection. However, it is helpful to have the phone number of an attorney or legal services organization on hand and to ask to call them if you are being forced to answer intrusive questions, have been detained for long time, or think your rights are being violated.

4. Removal from Flight by Airline

You may not be questioned or barred from a flight because of your national origin, race, gender, ethnicity, or political beliefs. A pilot may refuse a passenger if they reasonably believe, based on observation, that the passenger is a threat to flight safety. If you feel you have been unfairly



removed from a flight, try to write down all the details and specific words used that you can remember. You can contact the airline supervisor as well as Advancing Justice-Asian Law Caucus to report the incident.

Contact:

If you have questions, or to report an encounter with CBP or an example of racial profiling, please contact Advancing Justice-Asian Law Caucus attorneys Christina Sinha, christinas@advancingjustice-alc.org and (415) 848-7733, or Elica Vafaie, elicav@advancingjustice-alc.org and (415) 848-7711. Your request for legal advice will be privileged and confidential. If you would like Chinese (Mandarin or Cantonese) language assistance, please call (415) 896-1701.

For more information about our work, please visit www.advancingjustice-alc.org and www.scientistsnotspies.org