

US Citizen Rights When Re-Entering the US at Airports or Land Borders



U.S. citizens entering the United States at airports and land border crossings may be subjected to questioning and searches by U.S. Customs and Border Protection (CBP). This document provides basic principles to keep in mind during such interactions to protect your First Amendment rights.

This document is not intended as legal advice. Consult an attorney if you have legal questions or concerns. The information in this document is applicable to U.S. citizens.

1 As a U.S. citizen, you are legally guaranteed entry to the United States if you answer questions establishing your identity and citizenship.

It is important to remember, that if you are a U.S. citizen you must be allowed in.

Border officers are authorized to question you to confirm your identity and citizenship. Your passport should also provide such proof. You always have the constitutional right to remain silent in interactions with law enforcement, but at the border, you do need to establish your identity and immigration status to be granted entry.

You do not need to answer questions about your political beliefs, associations, activities, personal life, religion, or people that you know or with whom you may have recently met.

You cannot be denied entry to the country based on your refusal to answer such questions. You can politely decline to answer such questions by stating:

"I am declining to answer questions, except those about my identity and citizenship."

If officers persist in asking intrusive questions, including improper inquiry into your First Amendment protected-activities, beliefs and associations, you can ask to call your lawyer or request to speak to a supervisor. You may be allowed to place a short call so you should have the phone number of someone (friend, lawyer, family) memorized so that you can let them know if you are being held for longer questioning and so that you do not have to open your device to get a number.

As a U.S. citizen, you have an unequivocal right to enter the United States. **You cannot be turned away at the border for declining to answer questions which are unrelated to establishing your identity and citizenship.** You may be subject to delay and you may be taken to "secondary" screening for additional questioning to which you can continue to assert your right to decline answering inappropriate questions, but you will be let in.

For many people, it makes sense to provide brief, simple, factual answers to some CBP questions. For example: Q: "What is your occupation?" A: "I am a student." Q: "What was the reason for your trip?" A: "Tourism." **Remember that it is a federal crime to lie to a federal enforcement officer.** If you do answer any questions, be sure to be truthful as even a small or inadvertent misrepresentation can be used to bring charges against you.

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2 Border officers can search your belongings, but you do not have to unlock your electronic devices or provide passwords.

Border officers are authorized to search your belongings for contraband. They may open your bags and look through them. In the government's view, this search authority includes electronic devices such as phones, laptops, and tablets. While the legality of electronic device searches at the border is subject to ongoing legal dispute, the reality is, these searches occur with increasing frequency.

An officer cannot make you provide your password or passcode to unlock your device. If border officers tell you to provide your password or to unlock your device, you do not have to comply with that request. You should simply state that you do not wish to do so. **You cannot be denied entry for refusal to unlock your devices.** Refusal to do so may cause officers to seize your device and seek to unlock it and subject it to inspection. Even if you do voluntarily unlock your device, border officers could choose to seize it for forensic inspection anyway.

If officers seize your device, make sure to ask for and get a receipt. If the device does not contain evidence of a crime, CBP must return the device to you, but it can take a significant period of time, sometimes weeks.

There are some additional steps you can take to protect your First Amendment-protected communications and associations from government intrusion. You should ensure that your device does not have a biometric unlock (face or fingerprint) and only has a secure numeric passcode. You should place your phone in airplane mode and also completely power off your phone, laptop or other device before you enter through the border. You can also consider traveling with a "travel-only" phone that does not contain private information. If you are traveling with primary devices be sure to back up anything important to you in case your device is seized.

Have paper and pen with you so that when your devices are off you can write down the names and badge numbers of any officers that question you, the questions that they ask and other information about your encounter.

3 If an officer tells you that you are under arrest or it becomes clear that the officer suspects you have committed a crime, invoke your rights to remain silent and to speak with a lawyer.

If a border inspection turns into a criminal arrest or interrogation, you have the same constitutional right to silence and to speak to a lawyer that you have in other law enforcement interactions. Stop answering questions and state, **"I am invoking my right to remain silent. I want to speak with a lawyer."** Say this as many times as you need.

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