
TRAVELERS ARE CAUTIONED TO BE PREPARED WITH ALL NECESSARY DOCUMENTATION WHEN APPLYING FOR ADMISSION TO THE UNITED STATES;

U.S. Constitutional Protections Do Not Apply to the Same Degree at the Border

Millions of international travelers arrive in the United States in any given month and are inspected by U.S. Customs & Border Protection (CBP) Officers at the airport, land, or sea port of entry. Because immigration laws are enforced at the border by U.S. CBP, most travelers expect that they will be required to provide appropriate documentation to support admissibility to the United States in a proper nonimmigrant or immigrant status. Yet immigration inspection is only one of the law enforcement activities undertaken by U.S. CBP. The CBP is generally charged with enforcing U.S. laws at the border. This means that the CBP is not only looking for proper immigration-related documents when a traveler presents for inspection, but is also responsible for detecting evidence of criminal activity. Further, because travelers undergoing the inspection process have not yet been admitted to the United States, they are not yet within the United States for purposes of claiming the greater protections afforded by the U.S. Constitution. This legally distinct standard exists even if the airport is in the interior of the United States.

The CBP thus operates as law enforcement in an arena which is distinct. This can lead to what may appear to be abuse of power, but has been interpreted by courts and administration officials to be proper law enforcement activity. An example of the greater authority is the common search and seizure of electronic devices such as computers and cell phones without specific indication of illegal activity. The CBP is empowered to search these items, and the person of a traveler, without cause. The CBP may even retain and copy certain items with cause or suspicion. In some cases information may be shared with other government agencies. The [CBP Search Policy](#) may be located on the CBP website at www.cbp.gov.

Because each individual traveler seeking admission to the United States is one of many that an officer will see on any given day, travelers should expect a certain degree of briskness and matter-of-fact questions which may appear demanding. Insisting on polite conversation or the usual conversational courtesies could get travelers into trouble. Travelers should approach CBP respectfully, and with the goal of simply moving through the inspection process quickly, efficiently, and without incident. With that in mind, travelers may wish to review the CBP traveler's guide [Know before You Go](#) and also [Foster Quan, LLP's travel tips](#) on our firm's web site.

Please note that officers do make mistakes. If an officer's mistake cannot be resolved without undue inconvenience during the inspection process, travelers should contact their Foster Quan immigration attorney as soon as possible to pursue alternative means of correcting the mistake. Most errors can be remedied after the fact.

Additionally, remember that officers encounter hundreds of travelers a day. By the time an officer sees a particular traveler, the officer may not be fresh on the job for the day and may occasionally omit the common courtesies of saying “please” and “thank you.” Travelers who insist on these courtesies may find that it simply is not worth the trouble. The [National Post reported](#) a Canadian traveler recently insisted on an officer’s saying “please” before the traveler would comply with an order to get out of his car so that it might be searched. The traveler’s stubborn refusal resulted in his being pepper sprayed, hand-cuffed, and detained for several hours. Travelers should remember that the ultimate goal is to enter the United States lawfully and without incident. Insisting on “rights” they do not have will not typically facilitate successful admission, and it may result in far greater harm than the original slight. Be cautious when traveling, and do not take slights, errors, or even rudeness personally. Most officers are simply doing their job, for what may be the 300th time that day. On the occasions when an officer is simply rude and behaves improperly, it may be wise to simply move through the process without further incident.

In the event that a traveler feels strongly that he or she encountered an abusive officer or an unnecessarily rude, unreasonable, or difficult inspection, it may be appropriate to [report the incident](#) through the CBP web site. Complaints are not anonymous, and someone from CBP may contact you regarding your complaint.