

Know Your Rights While Traveling This Winter

This winter season, millions of people will pass through border control in order to enter and exit the United States. If you or your loved ones will be among them, it is important to be fully aware of your rights. This is particularly critical in the aftermath of President Trump's Muslim Ban 3.0, which the Supreme Court has recently allowed to go into full effect. The Ban has created additional confusion and increased problems at U.S. borders and airports, including religious-based questioning, seizure of electronics, and prolonged detentions.

Muslim Advocates has issued this fact sheet to assist travelers in understanding their rights when traveling to and from the U.S. this winter season. **REMEMBER: Although right to enter the country may vary depending on whether you are a U.S. citizen or non-U.S. citizen (such as a green card holder/LPR or visa holder), it is unlawful for law enforcement officers to ask questions or perform any searches or detentions based on your race, national origin, religion, sex, or political beliefs—regardless of your immigration status. If you feel this has happened to you, your family member, or someone you know, try to obtain the officer's name, number, and other identifying information, and [complete our secure and confidential reporting form here](#). You can also call Muslim Advocates at [202-897-1897](tel:202-897-1897) to report any incidents.**

Questioning at the airport or border

- U.S. Customs and Border Protection (CBP) agents are authorized to ask you questions in order to determine whether you are allowed to enter the United States.
 - This includes questions about your citizenship, immigration status, purpose for reentry, past countries visited, and amount of money you are bringing in.
 - This *does not* include questions about your race, national origin, religion, sex, or political beliefs.
- If you are selected for longer questioning when returning to the United States:
 - **U.S. Citizens:** You have the right to have an attorney present during questioning. Be aware, however, that invoking this right may lead to delays and possible detention as you wait for your lawyer.
 - **Non-U.S. Citizens:** You generally do not have the right to have an attorney present when an officer is asking you questions about your immigration status, but if the questions go beyond that, you do.

Remember: Although you have the right to remain silent, if you refuse to answer questions that establish your citizenship or immigration status, officers may detain you for further questioning (if you're a U.S. citizen) or deny you entry to the U.S. (if you're not a U.S. citizen).

Detention at the airport or border

- If you are detained or held in custody, *do not physically resist arrest*.
- **U.S. Citizens:** You have the right to an attorney—but *you must ask for one*. You have the right to remain silent, which means you are not required to answer any questions or sign any documents until you are able to speak with an attorney.
- **Non-U.S. Citizens:** You have the right to an attorney for any questioning that goes beyond your immigration status. The government will not provide you with an attorney at their own expense, but you have the right to retain a private attorney or call a legal services organization that may provide *pro bono* representation. You also have the right to speak to your consulate.
- Always ask for and record the name, number, and any other identifying information of any officer(s) involved in your detention.
- Officers may not use excessive, unreasonable, or unnecessary force against you.
- In general, if you believe you may face issues with entering the United States, you should consult with an immigration attorney before you leave and bring with you a signed representation form (G-28).

Searches at the airport or border

- Although CBP agents have the right to stop, detain, and search any person or item at the airport or border, *they may not search you based on your race, national origin, religion, sex, or political beliefs.*
- Your **bags** may be searched, even if the metal detectors do not reveal anything suspicious.
 - However, *intrusive searches*, such as strip searches or repeated detentions, require *reasonable suspicion of illegal activity*.
- **Electronic devices:** CBP agents have been increasingly searching electronic devices, including laptops, phones, tablets, and other handheld devices. Officers may ask to search your devices, including electronic files on them. You do not have to consent and may ask them for a warrant. There are steps you can take before traveling in order to protect the electronic files and other digital data on your electronic devices.
 - **U.S. Citizens:** You *cannot* be denied entry to the U.S. if you refuse to provide access to your device or turn over encryption keys/passwords; however, your refusal may lead to lengthy questioning or detention.
 - **Non-U.S. Citizens:** Green card holders (LPRs) and visa holders may refuse to provide access to their devices or turn over encryption keys/passwords, but doing so may complicate entry into the U.S., including denial of entry.

If an officer does search the electronic files on your device and makes copies of that information, or takes your device and searches it outside of your presence, *write down the name, badge number, and agency of the person who conducted the search.* Ask for a *receipt* for any property that is not immediately returned to you. If you do not want your devices searched, make sure to state clearly that you do not consent to the search.

Religious headgear

- You have the right to wear religious headgear. *If an officer asks you to remove it, assert your right to wear it.*
- If an alarm goes off when you walk through a metal detector, the officer is allowed to use a hand-wand to determine if the alarm is triggered by your headgear. If it is, you may be asked to remove your headgear or have a pat-down done. *You have the right to request that these actions take place in a private area.*
- Even if an alarm does not go off, the officer may still determine additional screening is necessary and ask you if he or she can pat down your religious headgear. You are allowed to refuse if you prefer to perform this pat-down yourself, but an officer will supervise you. *If the officer insists you remove your headgear, you have the right to ask that it be done in a private area.*

It is unlawful for law enforcement officers to question, search, or detain you on the basis of your *race, national origin, religion, sex, or political beliefs* – regardless of your immigration status.