

Heightened Scrutiny at U.S. Borders: What Travelers Need to Know

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There has been a significant increase in media coverage of travelers subjected to increased scrutiny at ports of entry to the United States. In some cases, individuals have been refused entry and detained until sent back home. Furthermore, U.S. Customs and Border Protection have increased their searches of travelers' electronic devices upon entry to the United States. Is it considered safe for nonimmigrants and legal permanent residents to travel?

Increased scrutiny at ports of entry

We are now seeing the impact of the implementation of President Trump's Executive Action: "Protecting the United States from Foreign Terrorists and other National Security and Public Safety Threats"¹. There have been media reports of individuals from NATO Allied countries being detained at border crossings and, in some cases, subjected to expedited removal. Aside from the news, we have seen advanced vetting and security screenings reported at the US border. This vetting has included legal permanent residents and non-immigrants. This vetting is likely to continue and may be introduced at U.S. Consulates in the coming months and in the processing of matters with the U.S. Citizenship and Immigration Service.

Is it safe to travel on my green card?

Legal permanent residents (LPRs) are provided significant protections and rights similar to those of United States citizens regarding international travel. In the last few months, we have seen an increased scrutiny of LPR travel. Certain fact patterns have come to light, including increased interviews of LPRs with active (even if minor) criminal matters or a history of certain immigration violations. In addition, LPRs who spend significant time outside of the United States and who, in previous years, would be let back without issue if they visited every six months are now subject to harsher scrutiny of their ties to the country. Finally, LPRs from countries floated as soon to be subjected to a travel ban have also faced issues coming into the United States. (See [Draft List for New Travel Ban Proposes Trump Target 43 Countries - The New York Times](#).)

In light of the above – is it safe to travel on my green card? The answer is generally yes; however, if you fit into one of the above situations we advise consulting with an immigration attorney immediately. Furthermore, your status may be at risk if you have been outside the United States for longer than six months or even a whole year.

Lastly, legal permanent residence may only be taken by a legal process initiated in the immigration court system. Travelers should be exceptionally wary of signing any document that purports to surrender their legal permanent residence at a port of entry.

Is it safe to travel on my nonimmigrant visa?

Non-immigrant visa holders report increased vetting at ports of entry, and US Customs and Border Protection agents possess

the power to deny entry to visa holders. Most nonimmigrant travelers should be prepared for additional questions regarding their status and should carry evidence regarding their status. This could include USCIS petition approval notices, evidence of continued employment, and itineraries for travel. Employment-based non-immigrants should inform their HR of international travel if specific immigration advice is needed. We advise all nonimmigrants who are not confident regarding travel to consult an immigration attorney for guidance.

Certain nonimmigrants should be especially vigilant now; this includes J1 and F1 scholars and students. Both visa holders should consult with their school Designated School Official (DSO) regarding their ability to travel and travel with up-to-date evidence regarding their status. Student and Exchange Visitor Information System (SEVIS) termination of student status with little to no warning or evidence has been reported, and affected students should contact their DSO and an immigration attorney immediately.

Electronic device searches – what you need to know

The United States Customs and Border Protection (CBP) has significant powers of search and seizure at ports of entry to the United States. These powers are part of the “border exemption” to the Constitution’s Fourth Amendment and have been upheld by the Supreme Court. (See *United States v. Ramsey*, 431 U.S. 606 (1977)). This power can be used regardless of the nationality of the traveler. Further, this search power has been used by CBP to search the electronic devices of travelers, which can include their social media. Travelers are advised to be exceedingly careful regarding social media usage and content on their mobile devices. By way of example of this vetting, current administration priorities include extreme vetting of individuals supporting designated terrorist organizations, which includes Hamas and the conflict in Palestine. The only exception to this search power that the courts have upheld is attorney-client privilege.

Be calm, be courteous, be contrite

The process of additional scrutiny at border crossings can be intimidating and stressful. It is important to remain calm during the process. Traveling with evidence of your status and activities in the United States is a good idea to support your statements to upon entry.