

KNOW YOUR RIGHTS

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WHEN ENCOUNTERING
LAW ENFORCEMENT



ACLU

AMERICAN CIVIL LIBERTIES UNION

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This booklet addresses what rights you have when you are stopped, questioned, arrested, or searched by law enforcement officers. This booklet is for citizens and non-citizens with extra information for non-citizens in a separate section. Another section covers what can happen to you at airports and other points of entry into the United States. The last section discusses concerns you may have related to your charitable contributions and religious or political beliefs.

This booklet tells you about your basic rights. It is not a substitute for legal advice. You should contact an attorney if you have been arrested or believe that your rights have been violated.

V. RIGHTS AT AIRPORTS AND OTHER PORTS OF ENTRY INTO THE UNITED STATES

REMEMBER: *It is illegal for law enforcement officers to perform any stops, searches, detentions or removals based solely on your race, national origin, religion, sex or ethnicity. However, Customs and Border Protection officials can stop you based on citizenship or travel itinerary at the border and search all bags.*

Q: What types of officers could I encounter at the airport and at the border?

A: You may encounter any of the full range of law enforcement officers listed above in Section I. In particular, at airports and at the border you are likely to encounter customs agents, immigration officers, and Transportation and Safety Administration (TSA) officers.

Q: If I am entering the U.S. with valid travel papers, can law enforcement officers stop and search me?

A: Yes. Customs officers have the right to stop, detain and search any person or item. But officers cannot select you for a personal search based on your race, gender, religious or ethnic background. If you are a non-citizen, you should carry your green card or other valid immigration status documents at all times.

Q: Can law enforcement officers ask questions about my immigration status?

A: Yes. At airports, law enforcement officers have the power to determine whether or not you have the right or permission to enter or return to the U.S.

Q: If I am selected for a longer interview when I am coming into the United States, what can I do?

A: If you are a U.S. citizen, you have the right to have an attorney present for any questioning. If you are a non-citizen, you generally do not have the right to an attorney when you have arrived at an airport or another port of entry and an immigration officer is inspecting you to decide whether or not you will be admitted. However, you do have the right to an attorney if the questions relate to anything other than your immigration status. You can ask an officer if he or she will allow you to

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answer extended questioning at a later time, but the request may or may not be granted. If you are not a U.S. citizen and an officer says you cannot come into the U.S., but you fear that you will be persecuted or tortured if sent back to the country you came from, tell the officer about your fear and say that you want asylum.

Q: Can law enforcement officers search my laptop files? If they do, can they make copies of the files, or information from my address book, papers, or cell phone contacts?

A: This issue is contested right now. Generally, law enforcement officers can search your laptop files and make copies of information contained in the files. If such a search occurs, you should write down the name, badge number, and agency of the person who conducted the search. You should also file a complaint with that agency.

Q: Can my bags or I be searched after going through metal detectors with no problem or after security sees that my bags do not contain a weapon?

A: Yes. Even if the initial screen of your bags reveals nothing suspicious, the screeners have the authority to conduct a further search of you or your bags.

Q: What if I wear a religious head covering and I am selected by airport security officials for additional screening?

A: You have the right to wear religious head coverings. You should assert your right to wear your religious head covering if asked to remove it. The current policy (which is subject to change) relating to airport screeners and requiring removal of religious head coverings, such as a turban or hijab, is that if an alarm goes off when you walk through the metal detector the TSA officer may then use a hand-wand to determine if the alarm is coming from your religious head covering. If the alarm is coming from your religious head covering the TSA officer may want to pat-down or have you remove your religious head covering. You have the right to request that this pat-down or removal occur in a private area. If no alarm goes off when you go through the metal detector the TSA officer may nonetheless determine that additional screening is required for non-metallic items. Additional screening cannot be required on a discriminatory basis (because of race, gender, religion, national origin or ancestry). The TSA officer will ask you if he or she can pat-down your religious head covering. If you do not want the TSA officer to touch your religious head covering you must refuse and

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say that you would prefer to pat-down your own religious head covering. You will then be taken aside and a TSA officer will supervise you as you pat-down your religious head covering. After the pat-down the TSA officer will rub your hands with a small cotton cloth and place it in a machine to test for chemical residue. If you pass this chemical residue test, you should be allowed to proceed to your flight. If the TSA officer insists on the removal of your religious head covering you have a right to ask that it be done in a private area.

Q: What if I am selected for a strip search?

A: A strip search at the border is not a routine search and must be supported by “reasonable suspicion,” and must be done in a private area.

Q: If I am on an airplane, can an airline employee interrogate me or ask me to get off the plane?

A: The pilot of an airplane has the right to refuse to fly a passenger if he or she believes the passenger is a threat to the safety of the flight. The pilot’s decision must be reasonable and based on observations of you, not stereotypes.

Q: What do I do if I am questioned by law enforcement officers every time I travel by air and I believe I am on a “no-fly” or other “national security” list?

A: If you believe you are mistakenly on a list you should contact the Transportation Security Administration and file an inquiry using the Traveler Redress Inquiry Process. The form is available at <http://www.tsa.gov/travelers/customer/redress/index.shtm>. You should also fill out a complaint form with the ACLU at <http://www.aclu.org/noflycomplaint>. If you think there may be some legitimate reason for why you have been placed on a list, you should seek the advice of an attorney.

Q: If I believe that customs or airport agents or airline employees singled me out because of my race, ethnicity, or religion or that I was mistreated in other ways, what information should I record during and after the incident?

A: It is important to record the details of the incident while they are fresh in your mind. When documenting the sequence of events, be sure to note the airport, airline, flight number, the names and badge numbers of any law enforcement officers involved, information on any airline or airport personnel involved,

questions asked in any interrogation, stated reason for treatment, types of searches conducted, and length and conditions of detention. When possible, it is helpful to have a witness to the incident. If you have been mistreated or singled out at the airport based on your race, ethnicity or religion, please fill out the Passenger Profiling Complaint Form on the ACLU's web site at <http://www.aclu.org/airlineprofiling>, and file a complaint with the U.S. Department of Transportation at <http://airconsumer.ost.dot.gov/DiscrimComplaintsContacts.htm>.

Other Resources:

DHS Office for Civil Rights and Civil Liberties

http://www.dhs.gov/xabout/structure/editorial_0373.shtm

Investigates abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion by employees and officials of the Department of Homeland Security. You can submit your complaint via email to civil.liberties@dhs.gov.

U.S. Department of Transportation's Aviation Consumer Protection Division

<http://airconsumer.ost.dot.gov/problems.htm>

Handles complaints against the airline for mistreatment by air carrier personnel (check-in, gate staff, plane staff, pilot), including discrimination on the basis of race, ethnicity, religion, sex, national origin, ancestry, or disability. You can submit a complaint via email to airconsumer@ost.dot.gov—see the webpage for what information to include.

U.S. Department of Transportation's Aviation Consumer Protection Division Resource Page

<http://airconsumer.ost.dot.gov/DiscrimComplaintsContacts.htm>

Provides information about how and where to file complaints about discriminatory treatment by air carrier personnel, federal security screeners (e.g., personnel screening and searching passengers and carry-on baggage at airport security checkpoints), airport personnel (e.g., airport police), FBI, Immigration and Customs Enforcement (ICE), U.S. Border Patrol, Customs and Border Protection, and National Guard.

REFERRAL CONTACT INFORMATION

American-Arab Anti-Discrimination Committee (ADC):
(202) 244-2990
<http://www.adc.org/>

American Immigration Law Foundation (AILF):
(202) 742-5600
<http://www.ailf.org/>

American Immigration Lawyers Association (AILA):
(800) 954-0254
<http://www.aila.org/>

Asian American Legal Defense and Education Fund (AALDEF):
(212) 966-5932
<https://www.aaldef.org/>

Council on American-Islamic Relations (CAIR):
(202) 488-8787
<http://www.cair.com/>

Mexican American Legal Defense and Educational Fund (MALDEF):
(213) 629-2512
<http://www.maldef.org/>

National Lawyers Guild (NLG):
(212) 679-5100
<http://www.nlg.org/>

National Immigration Law Center (NILC):
(213) 639-3900
<http://www.nilc.org/>

NAACP Legal Defense and Education Fund (NAACP LDF):
(212) 965-2200
<http://www.naacpldf.org/>

National Immigration Project:
(617) 227-9727
<http://www.nationalimmigrationproject.org/>

Puerto Rican Legal Defense and Education Fund (PRLDEF):
(800) 328-2322
<http://www.prldef.org/>

South Asian American Leaders of Tomorrow (SAALT):
(310) 270-1855
<http://www.saalt.org/>

U.S. Commission on Civil Rights (UCCR):
(800) 552-6843
<http://www.usccr.gov/>

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THE AMERICAN CIVIL LIBERTIES UNION is the nation's premier guardian of liberty, working daily in courts, legislatures and communities to defend and preserve the individual rights and freedoms guaranteed by the Constitution and the laws of the United States.