

TRAVELING TO THE U.S.: WHAT YOU NEED TO KNOW

Understanding Your Rights and Preparing for Entry

Overview

Traveling to the United States can be an exciting yet complex experience, especially when it comes to navigating immigration processes. This handout provides valuable insights and tips to ensure you are well-prepared for your journey. It is crucial to understand the limitations of legal representation at U.S. ports of entry and the importance of being thoroughly prepared.

Your Rights at the Border

When arriving at the port of entry (land border or airport), individuals encounter a unique legal environment where their rights are more limited compared to being within the United States. U.S. Customs and Border Protection (CBP) officers have broad authority to conduct searches and question travelers without a warrant. Electronic devices can be searched without a warrant, although travelers can request that sensitive information be handled with care.

Travelers must present valid travel documents and answer questions regarding their immigration status and the purpose of their visit. While individuals have the right to remain silent, refusing to answer questions or provide information may lead to delays or denial of entry. Admission is never guaranteed for noncitizens; instead, it is generally considered an application for admission that may be approved or denied at the discretion of the CBP officers. It is important to note that U.S. citizens cannot be denied entry, but lawful permanent residents and visa holders may face additional scrutiny.

Legal representation is not guaranteed during the inspection process and CBP generally does not engage with attorneys during the inspection process at airports or other entry points, but travelers can request to speak with an attorney if they are detained for further questioning.

Preparation for Different Traveler Categories

While having a loved one available to text or call in case of emergencies is wise, proactive preparation is the best strategy. The following is a summary of how each category of traveler may prepare:

1. Business Travelers:

- Obtain accurate advice on whether your proposed activities are permitted on a business trip.
- Ensure all necessary business-related documentation is in order, including invitation letters, current ESTA if traveling on VWP or a current unexpired B-1/B-2 visa, conference or meeting details e.g., and proof of return travel plans.

2. Visa Holders:

- Refer to the specific guidance provided by your attorney at the conclusion of every case to ensure compliance with U.S. immigration laws and required documents for travel.
- Keep all visa-related documents such as passport, visa, original I-797 notices, and evidence of the purpose of your visit readily accessible.

3. Green Card Holders:

- Never agree to relinquish your green card.
- Always assert your right to a hearing before an Immigration Judge.
- Be aware of potential issues if you have spent extended periods outside the U.S. without a re-entry permit.
- Consider applying for U.S. citizenship.

Special Considerations

- **Arrests or Inadmissibility:** If you have a history of arrests or any inadmissibility grounds may apply, you should exercise extreme caution and seek a consultation before travel.
- **Travel Bans:** Be aware of any potential or actual travel bans that may apply to you.
- **Consultation Before Travel:** Individuals with potential issues should seek a consultation before traveling to address any concerns proactively.

Further Resources

- **Immigrants' Rights:** <https://www.aclu.org/know-your-rights/immigrants-rights>
- **Airport Advice:** <https://www.aclu.org/know-your-rights/what-do-when-encountering-law-enforcement-airports-and-other-ports-entry-us>
- **Electronic Devices:** <https://www.eff.org/issues/border-searches>

Additional Support

If you require more detailed advice tailored to your specific situation, JSPBC offers comprehensive paid consultations. These sessions are designed to provide you with the necessary information for a successful journey and address any unique concerns you may have.

DISCLAIMER

This outline is **not** intended as legal advice in any specific case. The facts of a specific case may render the information in this outline inapplicable.