

# 2025 Supplement to the CAUT Advisory on Travel to the United States

## Overview

Travellers leaving or returning to Canada, particularly those traveling to the U.S., are increasingly vulnerable to preclearance zones and border searches that may compromise research confidentiality and academic freedom. CAUT will continue to provide updates as developments occur.

In the interim, the CAUT strongly recommends that members considering travel to the U.S. review options for remote attendance and travel only if necessary.

In addition, for reasons discussed below, CAUT recommends that academics who fall into the following categories exercise particular caution when considering travel to the U.S.:

- Citizens or residents of a country identified in media reports as likely to be subject to a travel ban
- Citizens or residents of a country where there are diplomatic tensions with the U.S.
- Travellers with passport stamps evidencing recent travel to countries that may be subject to a travel ban or where there are diplomatic tensions with the U.S.
- Those who have expressed negative opinions about the current U.S. administration or its policies
- Those whose research could be seen as being at odds with the position of the current U.S. administration
- Travellers who identify as transgender or whose travel documents indicate a sex other than their sex assigned at birth

It is recommended that academics carefully consider what information they have, or need to have, on their electronic devices when crossing borders and take actions to protect sensitive information where necessary.

This Briefing Note includes updates through April 2, 2025.

## Background

CAUT has issued several Travel Advisories as far back as 2005.<sup>1</sup> This supplement to the Travel Advisory includes updates as of April 2025, addressing recent developments at the U.S. border as well as legislative and judicial developments in Canada.

---

<sup>1</sup> The most recent [CAUT Travel Advisory](#) prior to this supplement was issued in February 2020.

However, given the rapidly evolving landscape in the U.S., CAUT recommends that members continue to monitor the situation closely and, if concerned, seek further guidance prior to travelling to the U.S.

## Enhanced Powers of U.S. Customs and Border Protection Officers at Canadian Preclearance Zones

U.S. preclearance zones are in eight Canadian airports: Vancouver, Calgary, Edmonton, Winnipeg, Toronto, Ottawa, Montreal and Halifax. Preclearance zones are also located at the Vancouver train terminal, Port of Vancouver and some B.C.-Washington State ferry routes. There are also proposals for new preclearance zones at Toronto's Billy Bishop Toronto City Airport (YTZ) and Montreal's train station for Amtrak services to the U.S.

In the *Preclearance Act, 2016* – which came into force in August 2019 – the powers of U.S. Customs and Border Protection (CBP) officers in Canadian preclearance zones were expanded beyond what was originally enacted in the 1999 version of the *Preclearance Act*. These changes in powers include:

- Canadians can no longer simply withdraw from a preclearance zone after entry.
- Under the new Act, travellers in preclearance zones may now be detained by CBP officers and required to answer identity questions and explain their reasons for seeking to withdraw from the preclearance zone. While detaining a traveller seeking to withdraw must be without “unreasonable delay,” the length of such a delay is not defined under the new Act.
- Physical searches, including strip searches, may be conducted by U.S. officers when a Canadian police officer is unavailable or unwilling to conduct such a search.
- If Canada Border Services Agency officers are armed in a location where there is a preclearance zone, then CBP officers in the preclearance zone may now also carry firearms.<sup>2</sup>

While Canadian law continues to apply in preclearance zones, including human rights legislation and the *Charter of Rights and Freedoms*, CBP powers are enhanced under the new *Preclearance Act* and the ability to enforce Canadian law is effectively constrained by provisions of the Act.

## Search of Electronic Devices

In both preclearance zones and border crossings, a U.S. or Canadian border officer can require access to electronic devices such as laptops, notepads and cellphones, thereby seriously compromising the protection of research confidentiality and academic freedom.

While the search powers granted to border agents that cover such electronic devices may not be new, reports continue to suggest that those search powers are being more frequently and arbitrarily exercised.

---

<sup>2</sup> As of December 7, 2022, CBSA border services officers and U.S. preclearance officers are permitted to carry firearms in certain prescribed circumstances and locations inside an air terminal, pursuant to the *Canadian Aviation Security Regulations, 2012*, [SOR/2011-318](#), s. 78(2). These officers are subject to an exemption to the general rule that a person must not carry, transport or have access to a weapon, an explosive substance or an incendiary device at an aerodrome.

## Travelling to Canada

The [Office of the Privacy Commissioner of Canada](#) (OPC) provides the following statement about the inspections and searches of electronic devices at Canadian points of entry:

### Canadian Customs Searches

At border controls, Canada Border Services Agency (CBSA) officers have widespread powers to stop and search people, and examine their baggage and other possessions including devices such as laptops and smartphones. These activities are carried out under the authority of Canada's Customs Act; a warrant is not required.

Individuals are also subject to these measures even if they are not planning to cross a border, but are in so-called "customs controlled areas." These are designated zones in a border crossing area or airport where domestic employees or travellers leaving Canada might mingle with arriving international travellers and goods that have not yet been cleared by the CBSA. Signs and notices are posted in these areas. Travellers and/or employees in or leaving these areas must identify themselves, answer questions and present their goods for examination if asked to do so by a CBSA officer. They may also be subject to physical searches.

### Cell phone, tablet, and laptop searches at the Canadian border

Canadian courts have generally recognized that people have reduced expectations of privacy at border points. In this context, privacy and other Charter rights continue to apply but are limited by state imperatives of national sovereignty, immigration control, taxation and public safety and security. The Canadian courts have not yet ruled on whether a border officer can compel a person to turn over their password and on what grounds, so that their electronic device may be searched at a border crossing.

While the law is unsettled, CBSA policy states that examinations of personal devices should not be conducted as a matter of routine; such searches may be conducted only if there are grounds or indications that "evidence of contraventions may be found on the digital device or media."

If your laptop or mobile device is searched, it should be searched in line with this policy and, in that context, you will likely be asked to provide your password. If you then refuse to provide your password, your device may be held for further inspection. According to the policy, officers may only examine what is stored within a device, which includes, for example, photos, files, downloaded e-mails and other media. Officers are advised to disable wireless and internet connectivity, limiting access to any data stored external to the device, for instance, on social media or in a cloud.

Individuals entering Canada who are concerned about how this policy might be applied may wish to exercise caution by either limiting the devices they travel with or removing sensitive personal information from devices that could be searched. Another potential measure is to store it on a secure device in Canada or in a secure cloud which would allow you to retrieve it securely once you arrive at your destination.<sup>3</sup>

Since the OPC posted this statement, the appellate courts of Ontario and Alberta have found that warrantless searches of personal electronic devices, such as smartphones and laptops, under s. 99(1)(a) of the *Customs Act* are unconstitutional because they violate s. 8 of the *Charter of Rights and Freedoms*, which guarantees the right to be secure from unreasonable searches and seizures.<sup>4</sup> The Ontario Court of Appeal found that s. 99(1)(a) of the *Customs Act* violates the *Charter* because "it authorizes border officers to search some of the most private information imaginable on the lowest possible standard to justify a search."<sup>5</sup>

---

<sup>3</sup> Office of the Privacy Commissioner of Canada. "[Your privacy at airports and borders](#)", 2018

<sup>4</sup> *R v Canfield*, [2020 ABCA 383](#) and *R v Pike*, [2024 ONCA 608](#).

<sup>5</sup> *R v Pike*, [2024 ONCA 608](#), at para 2.

The result of these decisions is that the CBSA can no longer rely on s. 99(1)(a) of the *Customs Act* to authorize searches of personal electronic devices at ports of entry in Alberta and Ontario. However, as the decisions in *Canfield* and *Pike* are not binding outside those provinces, the CBSA could still conduct warrantless searches of personal electronic devices at ports of entry located in other provinces or territories.

Following the Alberta Court of Appeal's decision, Parliament began considering draft legislation to address digital searches at the border: [Bill S-7, An Act to Amend the Customs Act and Preclearance Act, 2016](#). The amendment would require border services officers to have "reasonable grounds to suspect" a contravention of the *Customs Act* in order to inspect a personal electronic device. The bill had cleared the Senate and completed [first reading](#) in the House of Commons before Parliament was prorogued on January 6, 2025.

It should be noted that the powers of CBSA officers flow not just from the *Customs Act* but also from the *Immigration and Refugee Protection Act*. Thus, for searches of electronic devices, CBSA officers may rely on the *Customs Act* if the concerns relate to potential customs violations, or the *Immigration and Refugee Protection Act* if the concerns relate to identity and/or threats to security.<sup>6</sup>

According to a CBSA Operational Bulletin, a refusal to provide a password to allow border officials to access an electronic device may result in the device being held by CBSA, but not the arrest of the person failing to cooperate.<sup>7</sup>

However, in August 2016, a Quebec resident was convicted and fined \$500 for obstructing border officials for refusing to give up his smartphone password on re-entry to Canada at the Halifax airport. The charges were brought under the *Customs Act* and CBSA concerns were evidently related to goods the individual may have been seeking to bring into Canada.<sup>8</sup> Since the defendant pled guilty, there was no trial, nor any ruling on the issue as to whether CBSA officers do indeed have the legal authority to require travellers to provide passwords to electronic devices such as cell phones and whether there are any limitations.<sup>9</sup>

In April 2019, a lawyer's phone and laptop were confiscated by a CBSA officer at Toronto's Pearson Airport when he refused to provide passwords. The lawyer maintained that both devices contained confidential information protected by solicitor-client privilege. Although he was not detained, the devices were sent to a government facility to crack his passwords and search his files.<sup>10</sup>

The CBSA Operational Bulletin dealing with searching digital devices, emphasizes that a request to search an electronic device and/or to demand a password should be performed "with as much respect for the traveler's privacy as possible, considering that these examinations are usually more personal in nature than baggage examinations."<sup>11</sup> Further, the power to examine an electronic device does not extend to accessing links to information not actually downloaded on the device. Indeed, CBSA officers are instructed to immediately put the device into "airplane" mode on initial access.

---

<sup>6</sup> "Operational Bulletin: PRG-2015-31: Examination of Digital Devices and Media at the Port of Entry." Canada Border Services Agency, 2015.

<sup>7</sup> See "Actions required by CBSA officers" on page 2 of "Operational Bulletin: PRG-2015-31."

<sup>8</sup> Ruskin, Brett. "[Alain Philippon pleads guilty over smartphone password border dispute](#)", CBC News: Nova Scotia, 2016.

<sup>9</sup> Bailey, Sue. "[Border phone search raises privacy, charter issues, say lawyers](#)", CBC News: Nova Scotia, 2016.

<sup>10</sup> Harris, Sophia. "[Canada Border Services seizes lawyer's phone, laptop for not sharing passwords](#)", CBC News: Business, 2019.

<sup>11</sup> See "Actions required by CBSA officers" on page 2 of "Operational Bulletin: PRG-2015-31."

However, a report from the Office of the Privacy Commissioner of Canada in October 2019 noted that notwithstanding this policy, in four cases, a border services officer failed to switch devices to airplane mode prior to examination, and in one of those cases the officer “subsequently used the device to access the complainant’s social media and online banking information.”<sup>12</sup>

For academics, keeping research information or information gathered in the context of academic freedom on electronic devices may create a risk that such information will be reviewed at a Canadian port of entry or examined after confiscation.

It should also be noted that, in the current climate, failing to cooperate with a CBSA official by refusing to provide a password or insisting upon being advised of the grounds for the search may not provide much protection. Instead, academics should consider what information to keep on an electronic device while travelling. Academics are also urged to review their academic institution’s internal policies on storing data on electronic devices while traveling.

## Travelling to the United States

Issues with respect to travel to the U.S. extend beyond inspection and search of electronic devices, given Presidential Executive Orders and the apparent application of a heightened ethnic and religious screening process by CBP officers.

There are greater concerns about protecting the privacy of confidential information on an electronic device when seeking entry to the U.S. because of the broader application of purported search powers by CBP officers.<sup>13</sup> For example, CBP officers appear prepared to ask for passwords not just to access an electronic device but also to access external sites linked to the device such as social media or websites. The scope for privacy intrusion is thus even more extensive.<sup>14</sup>

The expansion of what the Americans call “warrantless searches” is the subject of litigation in U.S. Courts. The focus in the U.S. is not “customs search,” but security surveillance that has led to an increase in the number of device searches at entry into the United States. This has an impact on the privacy of not just the traveller, but the privacy of all those that can be identified through the contacts and communications stored on the devices.<sup>15</sup>

U.S. citizens and residents may challenge these searches in domestic courts, but this is typically after the search has been conducted. For example, in a 2019 case, the United States District Court for the District of Massachusetts found that the warrantless search of phones and laptops of 10 citizens and one permanent resident returning from international travel (two from Canada) at U.S. airports violated the Fourth Amendment of the United States Constitution, which protects security of the person against unreasonable search and seizure.<sup>16</sup>

Unless adopted by the CBP on a nationwide basis, the ruling only applies within the jurisdiction of the District Court of Massachusetts. Given the court declined to issue broader injunctive relief, the ruling also only applies with respect to the named 11 plaintiffs in the action. The option of retroactive enforcement for others is less than satisfactory given the privacy breach will have already occurred. There is really no effective legal way for a

---

<sup>12</sup> Office of the Privacy Commissioner of Canada. “[Crossing the line? The CBSA’s examination of digital devices at the border](#)”, October 21, 2019.

<sup>13</sup> Greenberg, Andy. “[A Guide to Getting Past Customs with your Digital Privacy Intact](#)”, *Wired*, March 24, 2025.

<sup>14</sup> Waddell, Kaveh. “[Give Us Your Passwords](#)”, *The Atlantic*, February 10, 2017.

<sup>15</sup> Noguiera, Daniela L. “[Warrantless device searches at the border will threaten privacy in the US heartland](#)”, *The Guardian*. July 18, 2019

<sup>16</sup> *Alasaad et al v. McAleenan et al*, No 1:17-cv-11730-DJC (Massachusetts)

Canadian resident to challenge the actions of U.S. border officers at a U.S. point of entry.<sup>17</sup> Failing to cooperate likely means they will be turned away at the border – perhaps without the electronic device in question. The refusal to grant entry will also be recorded in a U.S. database, which may lead to entry issues at another location and time.

## Recent Developments in the U.S.

In recent months, there have been a number of deeply troubling reports about academics facing enhanced vetting and denial of entry to the U.S. This comes after U.S. President Donald Trump signed an executive order on his first day in office calling for more stringent screening of foreign nationals entering the U.S.<sup>18</sup>

In March 2025, France’s interior minister reported that a French researcher had been denied entry by U.S. border agents after they found messages on his phone criticizing the Trump administration’s policies on academic research.<sup>19</sup> The CBP denied that it turned away the scientist on the basis of his opinions about the Trump administration – saying that searches of the researcher’s electronic media devices led to the “discovery of proprietary information” from a U.S. laboratory.<sup>20</sup>

In another case, CBP detained a kidney transplant specialist and professor at Brown University who was returning to the U.S. after visiting relatives in Lebanon.<sup>21</sup> Federal authorities said in a court filing that they found “sympathetic photos and videos of prominent Hezbollah figures” in her phone and that she attended the funeral for the leader of Hezbollah in February. The administration deported her despite her having a valid visa and a court order blocking her removal (the administration claimed that it was not aware of the order at the time the doctor was deported).

Several countries have issued updated advisories for traveling to the U.S., citing stricter screening of foreign nationals. A number of countries, including Denmark and Finland, have issued warnings about new U.S. policies affecting transgender travellers.<sup>22</sup>

On March 21, 2025, the Canadian government updated its travel advisory to the U.S. to note that Canadians and other foreign nationals visiting the United States for periods longer than 30 days must be registered with the United States Government.<sup>23</sup> Failure to comply with the registration requirement could result in penalties, fines and misdemeanor prosecution.

There are also reports that the Trump administration is considering imposing a travel ban on foreign nationals from more than 40 countries, including Afghanistan, Bhutan, Cuba, Iran, Libya, North Korea, Somalia, Sudan,

---

<sup>17</sup> There may be scope to challenge the exercise of such powers by CBP officers in a U.S. preclearance zone such as a Canadian airport. The laws of Canada, including the *Charter of Rights and Freedoms*, continue to apply as this remains domestic territory, But again the choice may come down to agree to the search or be denied travel and any subsequent legal proceedings may not provide a meaningful remedy as the court would not be able to order the U.S. Government to cease and desist exercising such powers.

<sup>18</sup> See: The White House. “[Protecting The United States form Foreign Terrorists and Other National Security and Public Safety Threats.](#)” January 20, 2025.

<sup>19</sup> Breeden, Aurelien. “[U.S. Turned Away French Scientist Over Views on Trump Policies, France Says.](#)” *New York Times*, March 21, 2025.

<sup>20</sup> Platt, Spencer. “[Denied, deported, detained: U.S. border incidents have travelers thinking twice.](#)” *NBC News*, March 29, 2025.

<sup>21</sup> Goldstein, Dana. “[Brown University Professor Is Deported Despite a Judge’s Order](#)”, *New York Times*, March 16, 2025.

<sup>22</sup> Dabu, Christi. “[These countries have issued advisories about travelling to the U.S..](#)” *CTV News*, March 22, 2025.

<sup>23</sup> Government of Canada. “[United States Travel Advice.](#)” April 4, 2025.

Syria, Venezuela and Yemen.<sup>24</sup> To date, there has not been an official announcement regarding the timing or precise scope of the reported travel ban.

There have been further reports since January 20, 2025, that Canadian citizens born in Iran and Afghanistan have been denied entry to the U.S. after facing intense questioning at the border.<sup>25</sup>

---

<sup>24</sup> Savage, Charlie and Bensinger, Ken. "[Draft List for New Travel Ban Proposes Trump Target 43 Countries.](#)" The New York Times, March 14, 2025.

<sup>25</sup> Woolf, Marie. "[Canadians born in Iran, Afghanistan turned away at U.S. border after Trump executive order on terror threats.](#)" The Globe and Mail, March 27, 2025.