

---

**KNOW YOUR  
RIGHTS**

**AT THE  
U.S. - MEXICO  
BORDER**



**ACLU**

AMERICAN CIVIL LIBERTIES UNION  
of TEXAS

---



## **PROTECT YOUR RIGHTS AT THE BORDER**

**IF YOU ARE MISTREATED BY A LAW ENFORCEMENT OFFICER, MAKE SURE TO GET THE NAME AND BADGE NUMBER OF THE OFFICER, AND MAKE A WRITTEN COMPLAINT AT A LATER TIME. YOU CAN ALSO ASK TO SPEAK TO A SUPERVISOR AT ANY TIME.**

**SOME BEHAVIORS WILL INCREASE YOUR CHANCES OF BEING ARRESTED OR DETAINED. FOR EXAMPLE, TRYING TO EVADE A CHECKPOINT, OR FLEEING FROM A CHECKPOINT, IS A CRIME. ASSAULTING A FEDERAL LAW ENFORCEMENT OFFICER IS A CRIME. LYING TO A FEDERAL OFFICER IS A CRIME. YOU MAY ALSO BE ARRESTED IF YOU INTERFERE WITH AN OFFICER WHO IS CARRYING OUT HIS OR HER DUTIES.**

**ARGUING WITH A LAW ENFORCEMENT OFFICER COULD MAKE YOUR SEARCH OR INSPECTION LONGER, SO TRY TO REMAIN PATIENT AND COURTEOUS.**

# WHAT TO EXPECT AT THE BORDER

At any international border, federal laws authorize U.S. government agents and officers to question and search every person who is seeking admission into the U.S., including U.S. citizens and their property. This short questioning and search process is not and does not have to be based on any particular suspicion of wrongdoing.

## QUESTIONING

Government agents may ask you questions about your citizenship and immigration status in order to determine whether you are a U.S. citizen, a green card holder, or have other lawful immigration status and are entitled to be admitted into the U.S. All persons seeking admission to the U.S. at an international border must have documents showing their immigration status.

Agents may ask you questions about your trip, or what you are carrying into the country, to make sure that you are not bringing any contraband or dangerous materials into the country, and to make sure that you are not committing any crime punishable by U.S. or Texas law.

## SEARCHES OF PROPERTY AND PERSON

Government agents may search your property, and sometimes your person, to make sure that you are not bringing any contraband or dangerous materials into the country, and to make sure that you are not committing any crime punishable by U.S. or Texas law. Routine searches do not have to be based on any suspicion of wrongdoing. More invasive searches need more justification. If you believe you were searched in an invasive way, you should consider making a complaint.

## WHAT IS THE BORDER?

An international border of the U.S. is any geographic boundary between the U.S. and other countries. The U.S. border is made up of areas where people can move by foot, vehicle, or boat from one country to another at facilities called “ports of entry.”

A port of entry is a government facility at an international border where persons, vehicles, and goods may enter or leave the country. Ports of entry may be on land, air, or sea. Land ports of entry include inspection sites on international roads, freeways, and bridges.

---

# YOUR RIGHTS AT THE BORDER

## WHEN BEING QUESTIONED

You always have the right to remain silent. But if you stay silent and do not answer questions, for example about your immigration or citizenship status, the law enforcement officers will likely refuse to allow you into the U.S.

You do not have to show your documents when asked. But if you refuse to show documents showing that you are a U.S. citizen, green card holder, or have other lawful immigration status, law enforcement officers likely will refuse to allow you into the U.S.

You do not have the right to have an attorney present during the short period of questioning and search by law enforcement officers at the border. If there is prolonged questioning, you may have the right to have an attorney present, but you have to ask for your attorney.

## WHEN BEING SEARCHED

Law enforcement officers at the border can search your vehicle or your baggage without any reasonable suspicion or your permission provided the searches are routine. If your property contains contraband or evidence of a crime, the law enforcement officers at the border can take that property away.

## WHEN BEING DETAINED

If you are detained because of your immigration status, you have the right to remain silent and speak to an attorney. You do not have to sign anything before speaking to an attorney. But you have to find and pay for your own attorney. You should ask for a telephone call to speak to a family member.

If you are detained because of suspicion that you have committed a crime, you have the right to remain silent and speak to an attorney. Anything you say can be used against you in a court of law. You do not have to sign anything before speaking to an attorney. If criminal charges are filed against you, and you cannot afford an attorney, the U.S. government will give you an attorney at no cost.

---



---

# FILMING AT THE BORDER

## WHO CAN YOU RECORD?

You have a constitutional right to record all law enforcement officers in the course of their performance of public duties in public places at all times, so long as you do not interfere with the officers in any way. Interfering could include stepping out of your car or failing to follow the instructions of a Border Patrol or Customs and Border Protection (CBP) officer. Your right may be subject to reasonable restrictions, even in public places, if they are not traditionally open for public speech and debate, or if the government has special security concerns.



## BORDER PATROL AND CBP

Border Patrol and CBP are law enforcement agencies, and you may record them in the performance of their public duties in public places, so long as you do not interfere with the officers in any way. However, since the government has special security concerns at ports of entry and border checkpoints, openly recording or filming may result in seizure of your recording device and/or further detention.

## WHAT CAN YOU RECORD?

You are allowed to record law enforcement agents performing their duties in public areas. You can also record your interactions and conversations with Border Patrol and CBP agents as you pass through a port of entry, a checkpoint, or other inspection point. You do not have to obtain consent to film or record a conversation you are in.

However, if you record audio of conversations of which you are not a part, then you may be violating U.S. and Texas wire-tapping laws, which forbid people from recording conversations of third parties without consent of at least one party.

## HOW CAN YOU RECORD?

You can make an audio or video recording, take a photograph, or any combination of these. If you record openly, you may be subject to further questioning, detention, or seizure of your recording device.

### FYI

If you record audio of conversations of which you are not a part, then you may be violating U.S. and Texas wire-tapping laws.



# ELECTRONICS SEARCHES

## WHEN YOUR ELECTRONICS ARE SEARCHED

CBP can search your electronic device, including your phones and cameras, at a port of entry without any suspicion of wrongdoing. The initial search may include a manual review of any files on your device.

An officer should generally conduct a search of your device in front of you and a supervisor. You can ask that they do this, but they may refuse.

An officer may take your device away for a period of time in order to complete a more thorough, forensic inspection. Unless the device contains evidence of a crime or it is the instrumentality of a crime, the agency must complete the inspection in a reasonable amount of time and return the device.

If your electronic device is temporarily detained, make sure that you receive a Form 6051-D custody receipt before you leave the port of entry.

If the officer asks you for your device's password, you do not have to give it to him. However, refusal to give the password may lead to lengthy questioning, detention, or seizure of devices for further inspection.

The officers may not delete pictures or movies from your phone or camera. If they do delete any information, make sure to get the name and badge number of the officer, ask to speak to a supervisor, and make a written complaint at a later time.



### FYI

The right to photograph does not give you a right to break any other laws. In fact, when you record, you may run the risk of being unfairly targeted. Failure to comply with state and federal laws may lead to arrest and criminal charges.

## WHEN BEING DETAINED

You always have the right to remain silent. Your silence cannot be used against you in court. Be aware that Border Patrol and CBP officers will likely try to force you to talk.

If you are detained because of suspicion that you have committed a crime, you have the right to remain silent and contact/speak to an attorney. You do not have to sign anything before speaking to an attorney. If criminal charges are filed against you, and you cannot afford an attorney, the U.S. government will provide an attorney to you at no cost.

You have the right to counsel for any prolonged interrogation unrelated to your eligibility to admission based on your immigration status to the U.S.

If you are detained because of your immigration status, you have the right to remain silent and speak to an attorney. You do not have to sign anything before speaking to an attorney. But you have to find and pay for your own attorney. You have the right to contact a family member by telephone.

Border Patrol and CBP officers may not use excessive, unreasonable or unnecessary force against you. You are entitled to humane treatment at all times. Border Patrol and CBP officers may not subject you to inhumane conditions, nor may they use physically or verbally abusive behavior, threats or intimidation tactics against you.



---

# THE CONSTITUTION-FREE ZONE

## THE PROBLEM

Normally under the Fourth Amendment of the U.S. Constitution, the American people are protected from random and arbitrary stops and searches.

The border, however, has always been an exception. There, courts have held that the normal rules do not apply. For example, the authorities do not need a warrant or probable cause to conduct a “routine search.”

But what is “the border”? According to the government, it is a 100-mile wide strip that wraps around the “external boundary” of the U.S. As a result of this claimed authority, people who are far away from the border, American citizens traveling from one place in America to another, are being stopped and harassed by immigration officials in ways that our Constitution does not permit.

Border Patrol has been setting up checkpoints inland — on highways in states such as California, Texas and Arizona, and at ferry terminals in Washington State. Typically, the agents ask drivers and passengers about their citizenship. Unfortunately, our courts so far have permitted these kinds of checkpoints. Legally speaking, they are “administrative” stops that are permitted only for the specific purpose of protecting the nation’s borders. They are not supposed to be checkpoints for general drug searches or for other law enforcement efforts.

However, stops by Border Patrol agents have not remained confined to that border security purpose. On the roads of Texas and elsewhere in the nation — places far removed from the actual border — agents are stopping, interrogating, and searching Americans on an everyday basis with absolutely no suspicion of wrongdoing.

The bottom line is that the extraordinary authority that the government claims at the border is spilling over and intruding into our everyday lives.

---





---

## MUCH OF THE U.S. POPULATION AFFECTED

To calculate what proportion of the U.S. population is affected by these powers, the ACLU mapped the population and population centers that lie within 100 miles of any “external boundary” of the U.S. (Map is available on the next page). The population estimates were calculated by examining U.S. census numbers for all counties within 100 miles of these borders.

What we found is that fully two-thirds of the U.S. population lives within this “Constitution-free” zone. That’s 197.4 million people.

Nine of the top 10 largest metropolitan areas as determined by the 2000 census, fall within the Constitution-free zone. (The only exception is #9, Dallas-Fort Worth.) Some states are considered to lie completely within the zone:

- Connecticut
- Delaware
- Florida
- Hawaii
- Maine
- Massachusetts
- New Hampshire
- New Jersey
- New York
- Rhode Island
- Vermont

## PART OF A BROADER PROBLEM

The spread of border-search powers inland is part of a broad expansion of border powers with the potential to affect the lives of ordinary Americans who have never left their own country.


Instead of targeted efforts to stop terrorism, illegal immigration, and other crimes, what we see in the Constitution-free zone is an approach that turns us all into suspects. This approach seeks to sift through the entire U.S. population in the hopes of encountering the rare individual in whom the authorities have a legitimate interest.

If we do not challenge this creeping (and sometimes galloping) expansion of federal powers over the individual under the guise of “border protection,” we are not doing our part to keep alive the rights and freedoms that are our birthright. We will soon find that we have lost some or all of our right to go about our business, and travel around inside our own country, without interference from the authorities.

---







**THE ACLU OF TEXAS IS  
DEDICATED TO RECLAIMING  
CONSTITUTIONAL AND CIVIL  
RIGHTS FOR ALL TEXANS,  
REGARDLESS OF IMMIGRATION  
STATUS. IN THE RIO GRANDE  
VALLEY RESIDENTS FACE  
INCREASINGLY MILITARIZED  
LOCAL AND FEDERAL LAW-  
ENFORCEMENT AGENCIES THAT  
UNFAIRLY TARGET IMMIGRANTS  
OR THOSE PERCEIVED TO BE  
IMMIGRANTS.**

THE ACLU OF TEXAS DEFENDS THE CIVIL RIGHTS  
AND CIVIL LIBERTIES OF ALL PEOPLE IN TEXAS, IN  
COURTROOMS, AT THE STATE LEGISLATURE, AND IN  
LARGE AND SMALL COMMUNITIES THROUGHOUT THE  
LONE STAR STATE.

LEARN MORE AT [WWW.ACLUTX.ORG](http://WWW.ACLUTX.ORG)

