FAQs – Searches of Electronic Devices at the Border

NOTE: The following general information is not a substitute for legal advice. You should consult an attorney if you have specific legal questions about your particular situation.

1. **Do I have the same legal rights at the border that I would elsewhere in the United States?**

   No, because of the so-called "border search exception." The Fourth Amendment to the U.S. Constitution generally forbids "unreasonable searches and seizures" by the government. However, the Supreme Court has held that at the border (which includes international ports of entry like airports), the government has broad authority "pursuant to the longstanding right of the sovereign to protect itself by stopping and examining persons and property crossing into this country." That heightened governmental interest in security, combined with a lower expectation of privacy at the border than in the interior, has led the Supreme Court to conclude that "routine" border searches are "not subject to any requirement of reasonable suspicion, probable cause, or warrant."

   Although the Supreme Court has not addressed specifically the search of electronic devices at the border, other federal courts generally agree that such searches do not require even reasonable suspicion—consistent with the general rule. One exception is the U.S. Court of Appeals for the Ninth Circuit (covering Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington), which held in 2013 that reasonable suspicion must underlie the "forensic examination" of a computer hard drive taken at the border.

   Given this legal landscape, U.S. Customs and Border Protection (CBP) claims broad authority to search and seize electronic devices at the border.

2. **Didn't the Supreme Court rule that the police must get a warrant before searching someone's cell phone?**

   Yes, but that case did not involve a border search. In *Riley v. California*, 134 S. Ct. 2473 (2014), the Supreme Court held that a warrant is generally required before a search of a cell phone seized incident to arrest. But so far, despite the substantial privacy implications of cell phone data searches recognized by the Court in *Riley*, lower courts have typically declined to extend *Riley* to limit border searches of electronic devices.

3. **So could my laptop, phone, or other electronic device be searched as I return from traveling abroad?**

   Yes, even if you are a U.S. citizen or a lawful permanent resident (LPR, or "green card" holder). According to CBP (https://www.cbp.gov/sites/default/files/documents/inspection-electronic-devices-tearsheet.pdf), a traveler may be chosen for inspection for many different reasons (*e.g.*, randomly, or because his or her name matches a "person of interest" in the government's databases, or because his or her travel documents are incomplete).

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4. What about the data on my phone, computer, or other electronic device?

CBP agents may swipe through your phone or look through the documents on your computer. The government also claims the authority to copy the data on your electronic devices.

5. Could CBP agents ask for my thumbprint or passcode/PIN to unlock my electronic device, or for my email or social media passwords?

Yes, even if you are a U.S. citizen or a lawful permanent resident (LPR, or "green card" holder). The law on whether you are legally required to comply is unsettled.

Regarding the information required to unlock your electronic device, it has been reported that CBP takes the position that it has the right to obtain and keep passwords as necessary to facilitate digital searches of a device that has been detained.

Regarding email and social media, some privacy experts contend that the "border search exception" would not apply to a CBP search of online accounts because the data is hosted at data centers around the world, not on the device carried through the border. However, this legal issue has not been settled, and as a practical matter, once CBP gains access to your device, CBP will have access to your signed-in online applications (Facebook, Twitter, etc.).

6. What if I refuse to provide my PIN or passwords?

If you are a U.S. citizen, you cannot legally be denied entry into the United States, but you may be detained and delayed, and there is a chance your phone, laptop, or other electronic device will be seized.

If you are a lawful permanent resident (LPR, or "green card" holder), in addition to the complications that a U.S. citizen may face, a hearing before an immigration judge might be required.

If you are a foreign national (e.g., a visa holder), and you are perceived as failing to cooperate, CBP might deny you entry.

7. Might the government keep my phone, computer, or other electronic device?

Yes, for further examination, which might include copying your data.

8. What should I do if CBP asks to search my phone, laptop, or other electronic device, or for my passwords?

If you do not want a particular electronic device searched, do not travel internationally with it. If you need to travel internationally with electronic devices, the safest course is to travel with devices that contain only the specific files needed for the trip. (You may request a travel device from the University for this purpose by contacting the OIT Support and Operations Center at 609-258-4357 (8-HELP), or helpdesk@princeton.edu. The University strongly encourages that approach, which is best suited to protect University data that may be restricted, confidential, sensitive, or governed by privacy laws. CBP has the legal authority

to perform a routine search of electronic devices that you carry across the border. If CBP decides to question you, or inspect your electronic device(s), you should never lie to or attempt to deceive CBP personnel, or try to obstruct the investigation (e.g., by deleting data). CBP personnel are federal agents, and lying to federal agents or knowingly interfering with their investigation is a crime. If you or your electronic devices are detained in the course of your University-related travels, please contact the OIT Support and Operations Center Help Desk staff (8-HELP or helpdesk@princeton.edu). If CBP takes your device and you leave the airport without it, make sure you get a receipt that describes your device and includes contact information so you can follow up.