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Your Privacy at Airports and Borders - From the Office of the Privacy Commissioner of Canada

Recently some members have made inquiries into privacy rights at airports in Canada, in terms of security and customs. As stated on the website for the *Office of the Privacy Commissioner of Canada*, **if your laptop or mobile device is searched, you will likely be asked to provide the password**. Please read the fact sheet provided in this bulletin to inform yourself about custom searches. Below is an excerpt taken from their website, under "Collection of Traveller Data."

Advance Passenger Information/Passenger Name Record Program

Under the Advance Passenger Information/Passenger Name Record Program, the Canada Border Services Agency seeks to identify travellers who may pose a security risk – before they arrive in Canada.

Information on all individuals travelling to Canada, regardless of carrier or citizenship, is reviewed. Data collected and reviewed includes: name, date of birth, gender, citizenship, travel document data, itinerary, address, ticket payment information, frequent flyer information, baggage details and contact telephone numbers. Names may be checked against watch lists, and certain people may be sent for further screening.

If you have concerns, travellers have a right to [request a copy of their personal Advance Passenger Information/Passenger Name Record data](#), and may ask that a notation be included if any of the information is incorrect. The Canada Border Services Agency has an Admissibility Branch, which operates independently and deals with disputes that develop over border services matters.

Entry/Exit System

The Entry/Exit Initiative provides the Canada Border Services Agency with information about individuals who have left Canada. The Canada Border Services Agency and U.S. Department of Homeland Security systematically exchange data on people travelling between the two countries at major land crossings.

Integrated Customs Enforcement System

Through the Integrated Customs Enforcement System program, the Canada Border Services Agency collects information on travellers crossing the Canada-U.S. border via major airports, selected highway crossings and cruise ship facilities. Personal information – name, date of birth, citizenship, address, mode of travel, purpose of travel and value of goods purchased abroad – is collected from customs declaration forms and matched with other Canada Border Services Agency data. Passage histories are analysed to pinpoint people with unusual or suspicious travel patterns. These people may face closer scrutiny by customs officials and law enforcement agents.

Customs Searches

Under Canada's *Customs Act*, Canada Border Services Agency (CBSA) officers have widespread powers to stop and search people, and examine their baggage and other possessions and devices at

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any Canadian port of entry (land border crossing, air terminal or sea port). Canadian courts have generally recognized that people have reduced expectations of privacy at border points. In this special context, privacy and other Charter rights are limited by state imperatives of national sovereignty, immigration control, taxation and public safety and security. CBSA officers are authorized to conduct searches of people entering Canada, including examining their baggage, parcels or devices such as laptops and smartphones. These activities may be conducted without a warrant. CBSA policy states that examinations of personal devices should not be conducted as a matter of routine; they may only be conducted if there are indications that "evidence of contraventions may be found on the digital device or media."

If your laptop or mobile device is searched, you will likely be asked to provide the password.

Officers may only examine what is stored within a device, which includes, for example, photos, files, downloaded e-mails and other media. If you refuse to provide your password, your device may be held for further inspection. Our understanding is that the issue of whether a border security agency can compel an individual to provide a password for a personal electronic device at a border crossing is not something that has been specifically looked at by the Courts in Canada.

Reference: OPPC. (2017, February 27). Your privacy at airports and borders.

<https://www.priv.gc.ca/en/privacy-topics/public-safety-and-law-enforcement/your-privacy-at-airports-and-borders/>

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