Cooperation with Immigration and Law Enforcement Agents

This bulletin has been prepared by the MIT Office of the General Counsel (“OGC”) to provide the MIT community with general guidance concerning potential interactions with immigration or law enforcement agents, both on campus and at border crossings or other points of entry into the U.S.¹

On Campus (or Other Non-Border Crossing Locations)

Inquiries About MIT Community Members

MIT does not provide information about members of the MIT community to immigration or law enforcement agents except with the consent of the individual; in response to valid legal process (such as a subpoena); or as required to comply with requirements relating to MIT’s status as a visa sponsor. In addition, MIT Police have a longstanding practice of not inquiring about an individual’s immigration status, and our officers do not enforce federal immigration laws.

If members of the MIT community are approached by immigration or law enforcement agents with requests for information about MIT students, faculty, or staff, they should direct those officials to the OGC in Building 7-206, and alert the OGC by calling 617-452-2082. Individuals should not release any information about other community members to immigration or law enforcement agents without first consulting with Jay Wilcoxson (jaren@mit.edu) or another attorney in the OGC (https://ogc.mit.edu/attorneys-staff).²

Inquiries About Your Own Individual Circumstances

In addition to being asked about others, members of the MIT community, especially our international colleagues, may be approached by immigration or law enforcement agents about their own personal situations. The decision whether and to what extent to cooperate with such officials is highly personal and varies depending on the nature of the request, as well as the individual’s own circumstances and risk tolerance. Although each situation is unique, below is some general guidance.

- Under most circumstances, you are not required to discuss your immigration or citizenship status with immigration or law enforcement agents. You have the right to remain silent or decline to meet with agents or answer their questions. Any information you do provide can be used later in court or immigration proceedings.

¹ Lawyers in the OGC cannot provide legal advice to individuals concerning personal legal matters. While this bulletin is intended to provide general information, it should not be construed as legal advice concerning any specific individual’s legal issues. However, we would be happy to meet or talk to assist in any way we can. Any questions or concerns should be sent to mitogc@mit.edu.

² From time-to-time, government investigators may seek information about MIT community members in connection with standard background checks relating to security clearances or government employment. If the investigator provides credentials identifying their affiliation and presents a signed consent form from the individual, it is generally permissible to share information in these circumstances, however you can always contact the OGC to confirm that the release of information is allowed. If possible, you should retain a copy of the consent form and record the contact information of the investigator.
• If you are not a U.S. citizen and an immigration official requests your immigration papers, you must show them if you have them with you, even if you choose not to answer specific questions. If you are driving, you are required to show your license and registration.

• If an immigration or law enforcement agent asks if they can search you or your belongings, you have the right to say no. Agents do not have the right to search you or your belongings without your consent or probable cause. (Note that the rules are different at border crossings, as described below.)

• Even if you choose to limit the information you provide, you should always be respectful, tell the truth, and never present false information or documents.

• In the unlikely event you are detained by immigration officials, you have the right to a lawyer, although the government is not required to provide one for you. A list of private immigration attorneys with experience in this area follows:
  
  o Dan Berger – Curran, Berger & Kludt (413-584-3232; dhb@cbkimmigration.com)
  o Jeannie Kain – Ramirez & Kain LLC (617-545-4804; jeannie@ramirezkain.com)
  o Vincent Lau – Clark Lau LLC (617-299-4213; vlau@clarklau.com)
  o Susan Church – Demissie & Church (617-354-3944; sbc@demissiechurch.com)

• The OGC can provide additional referrals on request, and more resources can be found here: https://harvardimmigrationclinic.org/resources/

While you have the right to decline to provide information under most circumstances, the reality is that doing so may raise additional questions that might lead to further scrutiny or additional follow up from immigration officials. After considering your own personal risk profile (e.g., your immigration status (and that of family members), sources of funding, nature of research or study, criminal record), you may decide that it is in your best interest to cooperate with inquiries from officials and provide the requested information. In evaluating this risk, it is always advisable to consult a personal attorney. While the OGC cannot offer personal legal advice, you can always consult the OGC (617-452-2082 or mitogc@mit.edu) for general guidance if you receive an inquiry from immigration or law enforcement agents.

More detailed information can be found at https://www.aclu.org/know-your-rights/immigrants-rights/ and https://www.nilc.org/get-involved/community-education-resources/know-your-rights/.

At Border Crossings and Other Points of Entry

As a general principle, government agents at the U.S. border enjoy more authority than law enforcement agents working in the interior. Although the U.S. Constitution prohibits warrantless searches under most circumstances, the U.S. Supreme Court has recognized a “border search exception” that allows broader latitude in protecting the integrity of the border. Although there is some uncertainty as to the permissible scope of warrantless searches at the border, it appears that the government construes this exception to permit the search of electronic devices and social media accounts for all individuals, including U.S. citizens.
As with other inquiries by immigration and law enforcement agents, whether to comply with requests from border agents is a personal decision that should be based on your own personal risk profile. Below is some additional information to consider when entering the U.S.

**Searches of Belongings and Electronic Devices**

- Border agents are entitled to conduct reasonable searches of your belongings; this may include a request to search electronic devices or demand credentials to social media accounts.

- Although border agents are not entitled to select you for a search based solely on national origin, religion, race, ethnicity, or political beliefs, they are also not required to demonstrate a basis for any suspicion before conducting a search of you or your baggage. However, some courts have held that border agents must have a “reasonable suspicion” of contraband or other illegal activity before seizing or conducting a search of a passenger’s electronic devices. Border agents are not required to inform passengers of that reasonable suspicion at the time of the search.

- Regardless of citizenship or immigration status, if you refuse to allow agents to conduct a search of your belongings, they may confiscate your devices, ask additional (and more intrusive) questions, and delay your entry, potentially by hours. You should always ask for a receipt for any confiscated items. Although it will vary from case to case, border agents may be more sympathetic to individuals who truthfully state that their employer prohibits access to data on employer-owned devices.

  - Even though a border agent can make the process more difficult, if you are a U.S. citizen or lawful permanent resident, they ultimately cannot deny you entry to the country based on your refusal to allow a search.

**Practical Guidance**

In order to limit intrusions into your privacy, consider reducing the data you carry, backing up your data to the cloud instead of on your device, and carrying temporary devices that contain only the data you need for your travels. More information about protecting your digital privacy at the border can be found here: [https://www.eff.org/files/2018/01/11/digital-privacy-border-12-2017.pdf](https://www.eff.org/files/2018/01/11/digital-privacy-border-12-2017.pdf).

**Questioning/Interviews by Border Agents**

In addition to possibly being asked to allow a search of your belongings, border agents are entitled to ask questions to evaluate your admissibility into the U.S. Any questions you choose to answer should be answered truthfully.

- For **U.S. citizens and lawful permanent residents**:
  - You only need to answer questions establishing your identity and citizenship or permanent resident status. You do not need to answer questions about your political or religious beliefs or associations.
  - Border agents may ask additional questions covering a range of topics, including reason for travel, length of stay, and places visited. Your refusal to answer other questions may cause delay, but should not prevent entry to the U.S.
- For visa holders and international visitors:
  
  o Refusal to answer questions may result in you being denied entry to the U.S.
  
  o If you believe questions become overly intrusive, consider asking to speak to a supervisor.
  
  o The federal government takes the position that you are not entitled to speak with an attorney during interviews aimed at assessing admissibility into the U.S., and you may not even be permitted to call anyone to explain any delay in entry. However, if you are being placed under arrest or the questions indicate that you are suspected of committing a crime, you should ask to speak with an attorney before answering additional questions.

Additional information about interactions with border agents at points of entry can be found here: [https://www.aclu.org/know-your-rights/what-do-when-encountering-law-enforcement-airports-and-other-ports-entry-us/](https://www.aclu.org/know-your-rights/what-do-when-encountering-law-enforcement-airports-and-other-ports-entry-us/)