

Update On Canada's Ability To Collect Traveller Data During Entries/Exits



The Entry/Exit Program is a joint initiative between Canada and the United States. Implemented on June 30, 2013, it enables Canada Border Services Agency ("CBSA") officers to collect information on foreign nationals (excluding U.S. citizens) who exited the country via land border crossing into the United States.

Currently, the ¹ enables CBSA to record entries and exits via land border crossing for all travellers (including both Canadians and Americans), as well as entries by air. CBSA is therefore able to maintain travel records which capture entries for all travellers by air and land, but only exits via land border crossings.

Of course, as many travellers exit Canada by air, these travel records are largely incomplete. However, CBSA's access to traveller information will be further expanded as a result of Bill C-21, An Act to amend the Customs Act, which received Royal Assent on December 13, 2018. *Bill C-21* will enable Canada and the United States to exchange basic biographic entry data on all travellers entering into their respective countries. Entries into one country will therefore indicate an exit from the other, and this information will be shared.

CBSA and its United States counterpart, U.S. Customs and Border Protection, have entered into an information sharing memorandum of understanding, which includes safeguards and protections for the exchange of travellers' biographic entry data. The biographic data collected on each traveller during exits by land border crossing includes: (1) name, (2) date of birth, (3) nationality, (4) sex, (5) travel document type, (6) travel document number, (7) name of country that issued the travel document, (8) date and time of exit, and (9) name of land border crossing used during exit.

Significantly, once the regulatory amendments and related information sharing arrangements are in effect (expected to take place in June 2020), CBSA will also be able to record exits by air for all travellers. In this regard, exit information will be obtained directly from air carriers through passenger manifests.

In summary, once fully implemented, *Bill C-21* will enable CBSA to maintain accurate and increasingly complete travel records for all travellers. More specifically, information on the date, time, flight information, and location of

departure by air will soon be recorded for all travellers departing on outbound international flights, in addition to the biographic data noted above. However, this information will not be shared with the United States under the current version of the joint Entry/Exit Program.

The stated purpose of the Entry/Exit Program, as well as CBSA's broader ability to record the biographic data on travellers entering and exiting the country, is to maintain a strong and secure border. Indeed, it does allow for the tracking of known high-risk travellers, and enables action on time sensitive situations, such as locating abducted children or runaways. However, this information is also used in connection with the more common traveller. Such routine uses of entry and exit data include:

- Identifying individuals who remain in Canada beyond their authorized period of stay;
- Determining whether applicants meet residency requirements for purposes of citizenship and permanent residency applications (including those applicants who seek to renew their permanent residence cards on an on-going basis); and
- Verifying travel dates for purposes of applying duty and tax exemptions.

Canadian citizens, permanent residents of Canada, as well as foreign nationals currently present in Canada, can request their Travel History Report from the CBSA under the ².

Footnotes

1 R.S.C., 1985, c. 1 (2nd Supp.).

2 R.S.C., 1985, c. P-21.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances. Specific Questions relating to this article should be addressed directly to the author

by Jonathan Mor
Dentons