

Cross-Border Travel Guide for Nova Scotia Law Firms and Lawyers

With inquiries increasing among law firms and lawyers regarding best practices for meeting confidentiality and privilege obligations where cross-border searches appear to have intensified, the Nova Scotia Barristers Society has prepared this guide as a first-line resource for consideration and planning purposes.

Traveling to other countries

Nova Scotia lawyers are ethically obligated to protect confidential and privileged information – these obligations continue while travelling for work or pleasure. In addition to searching briefcases and luggage, border agents may also demand access to lawyers' electronic devices, including, but not limited to, cellphones, tablets, and laptop computers.

When preparing for cross-border travel, lawyers should leave behind any client documents and devices that are not truly necessary to have in the circumstances.

Where travelling with electronic devices is necessary, lawyers should take the following steps:

1. **Minimize devices and data:** consolidate your devices and data where possible - the fewer electronics you carry, the better.
2. **Secure and separate data:** if you are travelling with your primary devices, segregate your work data.
3. **Label:** Clearly label any privileged documents or folders as "Privileged" or "Solicitor-Client Privilege" to make it evident which materials are confidential.
4. **Limit synced apps and data:** Before traveling, sign out of or temporarily delete apps that contain confidential information (email, cloud storage, messaging apps, etc). You can download what you need following your border crossing.
5. **Use airplane mode:** After signing out of any applications containing client information, disconnect your devices from any networks. Turning airplane mode on your devices prior to crossing the border can help protect against accidentally downloading client information at the border.
6. **Use strong security/encryption:** Enable full-disk encryption on your devices and secure them with strong passwords or passphrases. Use two-factor authentication to control access to your accounts. It will not deter initial access to your electronic

device during a border search, but in the event that your electronic device is seized for further examination, protected accounts may not be easily accessible.

7. **Identify yourself and assert privilege:** If a border agent asks to search your device, calmly and professionally inform them that you are a lawyer and that the device may contain solicitor-client privileged information.

If you are in doubt, call a lawyer. Consider keeping written notes with contact information for legal assistance in the country you are travelling to and the local law society, so you have it on hand should you need it.

When returning to Canada, lawyers should review their devices for any confidential or privileged information they may have stored once they reached their destination, and sign-out of all apps again. Lawyers should also take note of the following:

1. If CBSA demands your electronic device containing privileged information, you can request to see the senior customs officer. If a CBSA officer retains or accesses your device, request a receipt and make sure that you have a detailed description of the device including make, model and serial number.
2. Travelers are generally obligated to provide their password or fingerprint to unlock devices at the border. Canadian and US border officer are only supposed to check what is locally stored, not what is on the cloud, without further grounds.
3. U.S. border officials on Canadian soil: Pre-Clearance consideration - Lawyers and notaries should also know that travelers to the U.S. could encounter U.S. border officials while still on Canadian soil.
4. Avoid volunteering additional information: Do not be intentionally vague to border officers. Lawyers should be prepared to explain the purpose of their travel, and if appropriate, their connection to a Canadian law practice, without divulging confidential client information.
5. Do not rely on your electronic device to answer questions about your travel plans. Instead, have a printed itinerary to show to border officers

Law firms should consider developing a policy for their lawyers when crossing international borders that is consistent with best practices. In addition, firms should explore the possibility of having travel-friendly devices available to loan lawyers that do not contain any

client documents or information, but have the capacity for any necessary applications to be downloaded following border-crossing.

Resources:

CBSA:

Solicitor-client privileged information

If an officer encounters content identified as being subject to solicitor-client privilege or becomes aware of potential solicitor-client privilege during their examination, the officer must stop inspecting that document. If there are concerns about the legitimacy of solicitor-client privilege, the device can be set aside for a court to make a determination of its contents.

<https://www.cbsa-asfc.gc.ca/travel-voyage/edd-ean-eng.html>

<https://www.lawsociety.ab.ca/resource-centre/key-resources/professional-conduct/putting-a-plan-in-place-for-border-crossings/>

<https://nationalmagazine.ca/en-ca/articles/law/hot-topics-in-law/2025/lawyers-advised-to-travel-light>

<https://flsc-s3-storage-pub.s3.ca-central-1.amazonaws.com/Crossing-the-Border-with-Electronic-Devices-What-Canadian-Legal-Profes....pdf>

<https://lians.ca/news/lianswers/privileged-solicitor-client-information-at-the-u-s-border/>