

Traveling to Puerto Rico While Undocumented for Mijente's Lanzate 2016

The following is general information about the process and potential risks for undocumented immigrants who are traveling to Puerto Rico for [Mijente's Lanzate 2016](#) in San Juan. Although it was vetted by immigration attorneys and experienced organizers, it is not legal advice. Consult a trusted attorney before making decisions about your case.

A NOTE FROM MIJENTE

We are really excited about Lanzate 2016 taking place in San Juan, Puerto Rico. We believe that it is a key moment to lift up and support the resistance historic crisis in the Island, and an opportunity for Latinx to take a stand. We also understand that this will mean a harder travel process for our undocumented and criminalized attendees. We are providing this information with the purpose of making the process of researching risk and minimizing risk more accessible. The information gathered has been vetted by immigration attorneys, experienced organizers, and undocumented travelers who have been to Puerto Rico. Although they did not always agree with each other, we tried to portray an accurate balance of the real risks and of the successful travel experiences undocumented people have had to Puerto Rico. We strongly believe in the right of people to chose the risks they take in life every day, the ones they do not, and our responsibility to support them through this process.¹

SECURITY SCREENINGS

Because Puerto Rico is considered an “associated free state,” the security process while flying from inside another state within the U.S. is supposed to be very similar to that anywhere else in the country. Although there are cases of people with Deferred Action for Childhood Arrivals (DACA) being questioned by Border Patrol, and some cases of undocumented travelers being identified and put in deportation proceedings, many undocumented travelers have flown there and back without a problem.

The security screening and type of identification required is the same to as traveling to other states.

After getting a boarding pass, the next step is to go to a Transportation Security Agency (TSA) agent and show them an identification and Boarding Pass, followed by the security body scans. On the way back from Puerto Rico, baggage also has to go through screening by the U.S. Department of Agriculture (USDA) to see that it does not contain prohibited agricultural items, like most fruit and produce (click here for a [list of what is allowed to travel from](#) Puerto Rico).

There is no Customs check at any point of the regular screening process. The Customs and Border Patrol (CBP) website itself, says that U.S. citizens and Legal Permanent Residents who travel directly between the U.S. and Puerto Rico, “without touching at a foreign port or place, are not required to present a valid U.S. Passport or Green Card.” CBP says the same thing about travel to Puerto Rico for people with DACA, specifying that it is “similar to travel to any one of the 50 states” and does not require issuance of Advanced Parole.

¹ Researched and written by Tania Unzueta, Mijente Policy and Legal Director. A big thank you to those who contributed their knowledge and experiences, including Salem Acuña and Paulina Helm-Hernandez from Southerners On New Ground, Isabel Sousa Rodriguez, and T. Gonzalez.

But International airports are considered “ports of entry,” or places where people can enter the U.S. from abroad. Both the TSA and Customs and Border Protection (CBP), both agencies under the Department of Homeland Security (DHS)), are present and both agencies have the authority to ask for immigration documents should they *suspect* that someone is in the country without status or is using false documents.

- *Tip from undocumented traveler: Know the screening process well. If you are not used to traveling by plane, learn what you can put in your carry-on baggage and what you are required to take out of your bag and pockets when you go through the screening. And don't forget about the extra screening for produce on the way back. (See additional information for transgender and gender-nonconforming individuals under “Additional Factors Affecting Risk” or check out the information from the National Center for Transgender Equality for travelers, especially for information such as packing medicine and syringes, medical prosthetics, etc.)*

TYPES OF IDENTIFICATION

According to the TSA, documents that are acceptable forms of identification to show at an airport include (see website for a full list):

- Driver's licenses or other state photo identity cards issued by Department of Motor Vehicles
- Permanent resident cards
- Border crossing card
- Foreign government-issued passport
- Immigration and Naturalization Service Employment Authorization Card (I-766)
- [Notice to Appear](#) along with another identification with full name (see “Traveling While in Deportation Proceedings” below for more details)

State-issued ID or Driver's License: A state-issued driver's license or state ID is the document that is considered acceptable by TSA and does not identify the traveler as a non-US citizen or as a citizen of another country, which is particularly important for undocumented immigrants.

A note on “limited purpose” IDs: There are a few states that have been able to have identifications or driver's licenses that are not approved by TSA, particularly those from [states that have changed their laws and regulations](#) to make these available for undocumented immigrants. These are IDs or driver's licenses that usually do not require a social security number, such as the [limited purpose IDs or driver's licenses in Washington D.C.](#), [Temporary Visitor Driver's Licenses in Illinois](#). According to DHS, these are IDs that “must clearly state” that they are not acceptable for federal purposes, and are not alone acceptable identification for TSA. DHS also “[cautions against assuming that possession of a noncompliant card](#) indicates the holder is an undocumented individual, given that several states issue noncompliant licenses for reasons unrelated to lawful presence.” Places that have these types of identification include: Washington D.C., [New York City](#), and most recently [Phoenix, Arizona](#). [More information from DHS here](#).

Foreign Passports: For undocumented immigrants who do not have access to a state-issued ID or driver's license, a “foreign government-issued passport” is the only other option listed on the TSA website as acceptable. Although it is clear that there is no visa requirement to travel between the U.S. and Puerto Rico, even for foreign travelers, having a document that identifies an individual as a citizen

from another country raises the chances that there will be additional questions by TSA at the point of screening.

In a [story from March 2016](#), the director of the CBP office in Puerto Rico emphasized that “Persons that are illegally present in Puerto Rico must understand that CBP has the authority to inspect passengers departing on board domestic flights bound to the Continental United States [...] Our officers are always vigilant to find persons illegally present in the island.” This was in reference to a man who was traveling from Puerto Rico to New York City that “presented a passport of the Dominican Republic as proof of identity, with no visa or entry stamp.” According to the CPB, this led to a secondary inspection, which included fingerprints that led to their finding a charge of “illegal re-entry” from 2004. As it may have been in this man’s case, and in other cases that we know about anecdotally, Black travelers are racially profiled by Border Patrol in Puerto Rico as Dominican immigrants and targeted for secondary inspections.

It is also important to note that carrying any identification that marks an individual as a foreign citizen, especially a passport, makes the removal or deportation process easier for the government – should it get to that point.

- *Tip from undocumented traveler: If you are showing a passport to the TSA agent, hand it to them open to the page with your picture and demographic information, and place the boarding pass on the blank page of the passport, so that the TSA agent is literally only looking at the boarding pass and your ID. Not giving them a chance to look through the pages in the passport decreases the chances of questions about entry stamps or visas. But remember there is no guarantee.*

Fake Documents are Dangerous: In addition to not being able to get through the screening process, having falsified documents could lead to felony criminal charges and deportation proceedings.

Identification that do not match gender presentation: According to the National Center for Transgender Equality (NCTE), TSA rules required that name, gender and date of birth included in the flight reservation match the type of identification an individual provides at the airport. They say that “[t]he Secure Flight program checks this information against government watch lists, and gender information is used to eliminate false matches with the same or similar names – not to evaluate a person’s gender.” Meaning that the security check is supposed to be about whether the ID matches your flight, not your gender presentation.

NCTE further explains, “TSA Travel Document Checkers will check as you enter security to ensure that information on your ID matches your boarding pass. It does not matter whether your current gender presentation matches the gender marker on your ID or your presentation in your ID photo, and TSA officers should not comment on this.” This doesn’t mean that a traveler won’t encounter transphobic or heterosexist TSA agents who may direct an individual whose ID does not match gender presentation to a secondary screening, which may be riskier for undocumented travelers. See additional information under “Additional Factors Affecting Risk.”

- *Tip from a gender queer traveler: It’s their job to only verify the ID is valid, not to question your life. Often they would question whether it really was my ID, probing into my personal business. I’ve always just answered, ‘yes, it’s mine.’ They often inspect my ID for 5-10 minutes longer*

than everyone else, but they don't have a right to question any aspect of my gender. I just don't engage beyond that and just wait for them to approve my ID.

- *Tip from a genderqueer traveler: The gender on your ID should match the gender on your flight. I always booked my flights myself so I could keep my boarding passes private until I got gender-affirming identification. For people who are buying other individual's flights who may be transgender or gender nonconforming: You don't have a right to as my birth-assigned sex because you are buying my flight. Find alternative forms of getting the flight, such as reimbursing me for it, or letting me book it directly. And please, do not ask people for their "real name" to book the flight, it is extremely offensive.*

No ID that fits TSA guidelines: In some cases, when a person does not have the appropriate form of ID, TSA agents will try to confirm their identity by completing a form or asking additional questions that may include name, birth date, social security number, address. There are some [online reports](#) of other forms of IDs being used to supplement this process, like credit cards and school IDs, or other government-issued documents, but it should be noted that the TSA website states that even if your identity is confirmed, "you may be subject to additional screening."

TRAVELING WHILE IN DEPORTATION PROCEEDINGS

Using immigration documents as IDs: Immigrants who are in deportation proceedings may use a Notice to Appear (Form I-182), an order of supervision (OSUP), or other government-issued forms that contain your name, photo, and other identifying information, but they will require at least one more official document with the traveler's name or for the providing agency to confirm your identity.

[TSA has explained](#) that they evaluate a variety of government-issued documents to establish a person's identity. If a passenger does not have any of the listed forms of ID, they are allowed to present two other types of identification. "One of the two forms of identification must bear the individual's name and other identifying information such as a photo, address, phone number, social security number or date of birth [...] The I-862 form [or Notice to Appear] may be used along with another form of identification in this instance."

If a person can only present the Notice to Appear as an identification document, [the agency explains](#), "TSA will attempt to establish the passenger's identity through DHS partner components" such as CPB or ICE (Please note that this is only for immigrants with an NTA, which indicates that they are already in CPB or ICE database). If these agencies are able to confirm the information requested, the person is allowed to continue like other passengers to the body and luggage scan.

Open deportation proceedings: Individuals in deportation proceedings, including those who have been given a stay of removal or another form of discretionary, temporary relief, have different restrictions for them set by the immigration judge or ICE officers. In most cases these restrictions are listed in the Order of Supervision, and can include having to check with the deportation officer and get permission before traveling outside of the state (or sometimes tri-state area), and not traveling outside of the country -- which does not include Puerto Rico. The documents have instructions on contacting the appropriate agency.

- *Tip from an undocumented organizer: When an individual asks for permission from their deportation officer for travel, it is helpful to bring a letter from the organization inviting them*

to participate in the event, the dates for travel, the address of the location where the individual is staying, and the flight itinerary or flight reservations. If the person asking for permission doesn't have an attorney, make a plan to accompany them as an interpreter, and talk through the process. After the request is made, a couple strategic calls or e-mails to the office can help.

Using immigration documents as IDs: Immigrants who are in deportation proceedings may use a Notice to Appear (Form I-182), an order of supervision (OSUP), or other government-issued forms that contain your name, photo, and other identifying information, but they will require at least one more official document with a the traveler's name or for the providing agency to confirm your identity.

[TSA has explained](#) that they evaluate a variety of government-issued documents to establish a person's identity. If a passenger does not have any of the listed forms of ID, they are allowed to present two other types of identification. "One of the two forms of identification must bear the individual's name and other identifying information such as a photo, address, phone number, social security number or date of birth [...] The I-862 form [or Notice to Appear] may be used along with another form of identification in this instance."

If a person can only present the Notice to Appear as an identification document, [the agency explains](#), "TSA will attempt to establish the passenger's identity through DHS partner components" such as CPB or ICE (Please note that this is only for immigrants with an NTA, which indicates that they are already in CPB or ICE database). If these agencies are able to confirm the information requested, the person is allowed to continue like other passengers to the body and luggage scan.

Open deportation proceedings: Individuals in deportation proceedings, including those who have been given a stay of removal or another form of discretionary, temporary relief, have different restrictions for their set by the immigration judge or ICE officers. In most cases these restrictions are listed in the Order of Supervision, and can include having to check with the deportation officer and get permission before traveling outside of the state (or sometimes tri-state area), and not traveling outside of the country -- which does not include Puerto Rico. The documents have instructions on contacting the appropriate agency.

- *Tip from an undocumented organizer: When an individual asks for permission from their deportation officer for travel, it is helpful to bring a letter from the organization inviting them to participate in the event, the dates for travel, the address of the location where the individual is staying, and the flight itinerary or flight reservations. If the person asking for permission doesn't have an attorney, make a plan to accompany them as an interpreter, and talk through the process. After the request is made, a couple strategic calls or e-mails to the office can help.*

Traveling with an Ankle Monitor: A person wearing an ankle monitor [can travel and be approved](#) to go through the security checkpoint before boarding an airplane. In addition to asking for permission from the deportation officer or supervisory agency, an individual traveling with an ankle monitor could tell the TSA agent before going through the body and baggage scan. If the TSA agent does not know, the ankle monitor will show up on the body scan and potentially set off the metal detector. But whether the TSA agent knows ahead of time, or while the scan is happening, it is very likely that this will lead to a secondary inspection. This means both a more intense search of the individual's luggage and person, including [swabbing hands for explosive chemicals](#) and a pat-down.

One agency that runs ankle monitors out of Florida, [quotes TSA on the issue](#), stating “Outside of any other law enforcement issues that would prohibit a person from boarding an aircraft, wearing a monitoring device, including a medical monitor, during security screening should not pose a problem.” The also warn that if the person needs to go through secondary screening, it “often means delaying you to determine if you are fleeing the jurisdiction. Therefore it is wise to get a letter from us prior to air travel indicating what the bracelet is for and that you are not prohibited from leaving the jurisdiction.”

Traveling for people who may be “Priorities” for deportation: When it comes to immigration enforcement and deportation, Immigration and Customs Enforcement (ICE) is supposed to exercise discretion regarding who they prioritize for deportation and who they do not. The [three priorities identified by DHS](#) are:

1. People who are engaged or suspected of terrorism, people who are stopped at the border or other ports of entry, people with a conviction relating to a criminal gang, people with a felony conviction, people with a conviction categorized as an “aggravated felony” under the immigration and naturalization act;
2. People with three or more misdemeanors, people convicted of a “significant misdemeanor” (which could mean domestic violence, sexual abuse, burglary, unlawful possession and use of firearms, drug distribution or trafficking, driving under the influence, or an offense where the individual served a 90 days sentence or more); people caught entering or reentering the U.S., and people who have “significantly abused the visa or visa waiver programs.”
3. People who have a final order of removal on or after January 1, 2014.

If an individual is undocumented, and fits any of these categories, flying and going through a TSA checkpoint is definitely risky, and they should consult an attorney before making decisions. But it is also relative, because any risks would only be triggered if TSA agents decide that there is need for a secondary inspection of the passenger. [In the past, this secondary inspection](#) has included biometric data, such as fingerprints, and a comparison of this information with government databases, including the Department of Homeland Security.

If an individual who is considered a priority for enforcement is identified as undocumented while traveling, and referred to secondary inspection, there is a likelihood that they will be identified as priority, and issued a “Notice to Appear” (NTA), the first step towards being put in deportation proceedings, and taken into custody. (When a person has been deported in the past, they may get a new NTA or be taken into custody pending a reinstatement of their prior deportation order).

Because of the organizing against deportations over the last several years through the [Not One More Deportation Campaign](#) and others, we know that even when a person who is considered priority is issued an NTA, or taken into custody, it does not mean that they will be deported. A strong legal and grassroots organizing response could still make a difference in stopping this person’s deportation and providing relief.

- *Tip from an undocumented organizer: Think of evaluating the risk that you are taking traveling, as the risk that you would be taking in being part of a civil disobedience. Know your*

case, talk to a trusted organizer, talk to your lawyer, understand the risk, but also understand that community organizing and fighting deportation works, and that it all feels like part of living undocumented in the U.S. If you are an organizer helping someone decide what to do, just remember that it is their lives, that the consequences will be lived by them and their families, and that it must be their decision -- whether it is to take a risk or not.

HETEROSEXISM AND HOMOPHOBIA

Gender nonconforming and transgender travelers, particularly those who are undocumented and do not have identifications that match their gender, may face additional scrutiny while traveling through a TSA checkpoint. See the note we have on identifications not matching gender presentation above, under “Types of Identification” and the [National Center for Transgender Equality a guide for transgender travelers](#) from packing to security screening. Below are some of the more relevant information that could be useful to minimize risk for undocumented travelers from that guide:

Packing Luggage: Gel-filled prosthetic items, such as used for breast augmentation, are not included in the 3-ounce limit for liquids, “as they are considered medically necessary” but their presence “may result in extra screening.” They recommend packing these items in checked luggage, or calling the “TSA Cares Hotline” to speak with a trained representative, at 1-855-787-2227.

Body Scanners: Most airports use “Advanced Imaging Technology” that scans the profile of a person’s body and catch an “anomaly” or “alarm” including items that may be hidden under a person’s clothing. The NCTE notes that in some cases the scanners “can register body contours not typical for a person’s gender as anomalies. Foreign objects such as prosthetics, binding garments, or even paper or change left in a pocket will commonly register as anomalies requiring further screening. Often this consists of a limited pat-down of the area(s) where an anomaly was detected, however it can potentially involve a complete pat-down.” You can opt-out of scans at any time, but will be then required to undergo the pat-down.

The pat-down: A pat down may take place when there is additional information needed after the body scan or as an alternative, and can be very invasive. The pat-down must be performed by an officer of the same gender as the traveler, based on your gender presentation or identity. NCTE says that “transgender women should be searched by female officers, and transgender men should be searched by male officers. The gender listed on your identification documents and boarding passes should not matter for pat-downs, and you should not be subjected to personal questions about your gender. If TSA officers are unsure who should pat you down, they should ask you discreetly and respectfully.”

- *Tip from transgender traveler: Prepare yourself mentally that there will be uncomfortable moments. Like being asked if you are male or female, and how or who should pat you down. If people prefer a man or woman, be vocal about it. For people who have not had surgeries, clothing can also be an issue, and they may be asked if they are wearing something under their clothes or if they have something hidden under their shirt. A lot of pressure is put on the passenger, be confident, direct and honest in our interaction with agents.*

THE BEHAVIOR DETECTION PROGRAM

TSA currently has a number of “Behavioral Detection Officers” (BDO) at airports who observe travelers for signs that they may be lying or hiding potentially criminal or terrorist activity. This means that these agents are constantly looking for [signs such as](#) “trembling,” “fast eye blink rate,” or someone who “covers mouth with hand when speaking.”

[The American Civil Liberties Union has filed a lawsuit](#) against this program for information, including whether it disproportionately affects minorities, with particular concerns about its effect on [undocumented](#) and [transgender](#) travelers. The National Center for Transgender Equality (NCTE) [says the following](#):

BDOs may casually approach you and ask questions about your destination and luggage, looking for further cues. Trans travelers may understandably be nervous if approached by BDOs, and in some situations, their apprehension about encountering transphobia or privacy invasions could cause them to look “suspicious.” If approached by a BDO, we encourage you to answer questions in a straightforward manner. If you encounter any difficulty, ask to speak to a supervisor.

PREPARATION AND ORGANIZING WORK

Depending on your situation, some things that have been useful for other undocumented immigrants who are traveling by plane to Puerto Rico, or other states, include:

- Know that extra inspection, detention by border patrol, or even a deportation order does not mean a deportation or the end of the fight. If an individual has not been deported before, the process will still take an immigration court, and the possibility of prosecutorial discretion. If a person has already been deported in the past or has a final order of removal, although the process will go much faster, there is still a chance to fight through good legal defense and community organizing.
- A trusted person in the family should know where all documents pertaining to the traveler’s immigration, criminal, education, medical and family history;
- In case that representation is needed, the traveler could sign a DHS [Privacy Waiver Authorizing Disclosure to a Third Party](#) so that family members, or community organizers authorized can have access to the person’s information, even if they are in detention.
- The traveler’s immigration attorney should also be aware of the plans.
- The traveler could write the phone number of their immigration attorney, trusted community organizer, family member, or other point of contact with permanent marker on their bodies, so that in case they are detained, they can have a person’s contact information.
- Plan a protocol of letting an individual know when you are supposed to arrive, and make a plan for what to do in case you are not able to get in touch with them due to being detained by immigration enforcement or delayed by additional protocols.

Make sure that your trusted family members, community organizers, and attorneys know to get in touch with Mijente and the Not1More deportation campaign should you be targeted by immigration enforcement during your travel to Lánzate.