



BRIEFING: USCIS FORM I-407 RECORD OF ABANDONMENT OF LAWFUL PERMANENT RESIDENT STATUS

FEBRUARY 7, 2017

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General Information:

Information has been circulating throughout formal and informal media channels regarding a number of reports in which it is alleged that U.S. Citizenship and Immigration Services (USCIS) form *I-407 Record of Abandonment of Lawful Permanent Resident Status* has been disseminated to legal permanent residents (LPR), and that they in turn have been pressured into signing the document prior to entry into the United States. Form I-407 is the standard document used by the USCIS to process requests made by green card holders to abandon, or renounce, their legal permanent residency in the United States. Individuals who sign the document renounce their legal permanent residency and waive the right to stand before an immigration judge, who would normally decide whether the individual has lost his/her legal permanent resident status due to abandonment.

Reports from a variety of reputable sources have alleged that LPRs arriving by airplane and on land at international border crossings have been given copies of Form I-407 and pressured into signing it without access to attorney representation (Bachman 2017). The most widely publicized instances are alleged to have occurred at the Los Angeles International Airport on the weekend running from January 27-29, 2017, and at Dulles Airport, in the same time frame.

In Los Angeles, a team of lawyers is working with individuals who were urged by airport officials to sign the documents. Rachel Odio, an immigration lawyer with Los Angeles Pro Bono law firm Public Counsel, affirmed that her firm believed that strong arguments existed that signatures were obtained without consent (Bachman 2017). Likewise, in Virginia, a lawsuit was filed on January 29, 2017 alleging that individuals were coerced by Customs and Border Protection (CBP) agents into signing Form I-407 “without their knowledge or consent.” Furthermore, the lawsuit states that individuals were told that if they did not sign the forms, they would be formally removed from the United States and barred from reentry for a five-year period (Bertrand 2017).

These incidents followed publication of the Administration’s *Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States*, which barred individuals from seven, predominately muslim nations, from entry into the United States. Confusion surrounding the implementation of the Executive Order likely played a factor in the decision to distribute copies of Form I-407.

Impact on Latino Communities:

After the incidents described above, a multitude of media channels whose audiences are predominately Latino/Hispanic, have expressed concerns regarding the impact that Form I-407 could have on LPRs travelling between the United States and countries throughout Latin America. A number of smaller media outlets have published reports alleging that immigration officials at the U.S./Mexico border have detained



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individuals and coerced them into signing Form I-407 (Albarrán 2017). Though these reports are currently unverified, Marcos Bucio, the Consul General at the Consulate General of Mexico in El Paso,

TX, has acknowledged the reports and confirmed that there has been an increase in the number of people seeking information and legal services in the area (Salas 2017).

Marcos Bucio, along with legal experts, non-profit organizations, and even the El Paso Catholic Diocese, has urged LPRs not to sign any documents at the border. If presented with documents, especially Form I-407, individuals are advised to request a lawyer and an audience with an immigration judge, as this is their legal right (El Paso Proud 2017) (Cancino 2017).

Background on Form I-407 and ‘Abandonment’:

As noted in the General Information section, Form I-407 is a standard document used by the USCIS to process requests made by green card holders to abandon, or renounce, their legal permanent residency in the United States. In and of itself, the form is not unusual. Individuals will often choose to abandon their residency if they decide to move to another country. By doing so, they are able to re-enter the United States to visit without being questioned regarding their residency status and the possibility that they have violated its terms. Additionally, LPRs who decide to move to another country are freed from U.S. tax obligations. By abandoning their residency, LPRs formalize this state of affairs (AllLaw n.d.).

Legal permanent residents who are not moving to another country would not typically have a reason to fill out Form I-407. LPRs are allowed to visit other countries for limited periods of time (e.g. family visits, vacations, etc.). However, LPRs are **not** allowed to move to another country with the intention of making it their primary home (AllLaw n.d.). This is an important point, as a variety of myths exist regarding the rights of LPRs. For instance, rumors frequently circulate that hold that an individual need only enter the United States once per year in order to keep his/her green card active. Likewise, there are a variety of rumors regarding the amount of time that LPRs are allowed to spend outside of the United States. These myths are likely based on the fact that LPRs that have spent more than six months abroad are typically questioned regarding their status; and individuals who have spent more than one year abroad have to make their case before an immigration court in order to reclaim their residency. Nonetheless, these statements are categorically false. LPRs that have left the United States for **any** amount of time with the intention of residing permanently abroad renounce, or abandon, their citizenship (Bray n.d.).

In the event than an LPR has resided outside of the United States for an extended period of time, he/she will typically be asked a number of questions by a CBP agent to determine whether or not abandonment has occurred. The officer will review factors including payment of U.S. taxes, home/apartment ownership/long-term lease, employment in a foreign country, whether the individual travelled with family to a foreign country, whether the individual returned with a one-way or round-trip ticket, or whether other ties were maintained in the United States (Bray n.d.). If a CBP agent suspects that an individual has



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violated the terms of his/her residency, and abandonment has occurred, the agent can **request** that the individual file an I-407 form. However, the individual cannot be required to do so unless sufficient evidence is presented demonstrating that they have established residence outside of the United States or have violated U.S. immigration laws (AllLaw n.d.). In these cases, the individual has the right to present his/her case before an immigration judge.

As stated in the latest U.S. Department of State guidelines on I-407, issued on March 26, 2015:

“The decision to abandon LPR status is strictly voluntary and consular staff should not encourage or require individuals to abandon LPR status under any circumstances... The processing of Form I-407 at consular sections is not adjudication, and consular officers accepting and processing the form do not make a formal finding of loss of LPR status through abandonment. This determination falls exclusively to immigration judges within the Department of Justice’s Executive Office for Immigration Review. (U.S. Department of State 2015)”

Additionally, the guidelines note that the consular office **must** recite a prepared statement informing the individual that he/she waives the right to a hearing before an immigration judge, should he/she sign Form I-407.

Precautions Legal Permanent Residents Should Take:

It is important that LPRs understand the terms of their status as green card holders, and what the impacts of violating these terms may be. As noted above, LPRs have the legal right to travel abroad, though certain restrictions must be adhered to; most importantly, that an individual has not left the United States with the intention of establishing permanent residency abroad. When travelling, LPRs need to present a passport from their country of citizenship or a refugee travel document at the point of departure. The destination country may also have additional entry/exit requirement (e.g. a visa). Upon reentry into the United States, LPRs will be asked to present an unexpired green card (i.e. Form I-551, Permanent Resident Card), as well as any other identity documents obtained by the individual (e.g. a foreign national identification card or a U.S. Driver’s License if applicable) (USCIS 2016).

It is advisable that LPRs investigate thoroughly the entry and exit requirements of both the United States and their target destination(s) before making any travel plans. Additionally, it is well worth noting that an individual can make his/her reentry into the United States easier by carrying copies of any documents that demonstrate ongoing connections to the United States. These can include U.S. tax returns, a home lease, documents providing evidence of ongoing employment, or any other documents that help demonstrate the intent to permanently reside in the United States (Bray n.d.). Though these items cannot guarantee reentry, they help to bolster the case of an individual seeking to establish intent of permanent residency.

Notably, there are options for LPRs who need to remain abroad for more than one year. In these cases, it



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is very important that the individual follows all established processes and completes all necessary USCIS forms. For these individuals, Reentry Permits (USCIS Form I-131) are available for use. These forms should be filed prior to the trip taking place. Upon filing the form, the petitioner will be asked to explain the purpose of the trip, and how much time he/she has already spent outside of the United States (Bray n.d.). If approved, and in the time that the Reentry Permit is valid, an LPR will be allowed to apply for admission into the United States without first needing to obtain a returning resident visa from a U.S. Embassy or Consulate abroad. Entry is not guaranteed though, as the individual must be determined to be admissible according to USCIS guidelines (USCIS 2016). Filing fees for Reentry Permits are currently US\$575 plus a biometrics services fee of US\$85 for applicants between the ages of 14 and 79.

For additional information, please visit the USCIS website at <https://www.uscis.gov/>



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**BRIEFING: USCIS FORM I-407 RECORD OF
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STATUS**

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**Appendix I: I-407 Record of Abandonment of Lawful Permanent Resident
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Appendix II: Instructions on I-407