

From: U.S. Department of Homeland Security
<departmentofhomelandsecurity@service.govdelivery.com>
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Homeland Security

Citizenship and Immigration Services Ombudsman

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Tenacity and Partnership Leads to Change In Advance Parole Processing

The Office of the Citizenship and Immigration Services Ombudsman has a unique relationship with USCIS. It is one of mutual respect and collaborative effort. The Ombudsman is charged by statute to identify systemic problems in that agency's delivery of immigration benefits and make specific recommendations on how USCIS should address them. The Ombudsman submits formal recommendations to USCIS through its Annual Report as well as issuing individual recommendations published separately.

However, before an issue rises to the level of a formal recommendation, there are many opportunities for the Ombudsman to review, discuss, and deliberate the need for change. We engage in discussions with USCIS at all levels—local, operational, and at headquarters—through meetings and in writing. The discussions help us understand the reasons behind agency decisions. They also provide our office an opportunity to share with USCIS the practical implications of its actions, some of which are not always readily apparent.

More than a year ago, an opportunity for an informal partnership presented itself. The Ombudsman learned that, in some instances, USCIS was denying applications to renew advance parole. The applicants were traveling outside the United States on valid

advance parole documents and were still valid upon return. However, these applicants had already submitted renewal applications to USCIS because the documents would soon expire. When the applicants returned, they received notice from USCIS that their requests for renewals had been denied.

The denials were the result of the official parole application instructions, which clearly state that “if you leave the US during the pendency of the application you will be deemed to have abandoned it.” Under USCIS regulations, these instructions have the force of law (8 CFR 103.2(a)(1)). However, USCIS had not previously denied advance parole in these situations, despite the fact that the instructions had read this way for years. Why were the denials occurring now?

Sitting down to discuss the issue with USCIS, our staff soon understood the operational reasons for the denials. USCIS adjudicators are now consistently using the information from the Arrival and Departure Information System (ADIS), the CBP-managed arrival and departure database. USCIS could actually now identify those filing advance parole applications who then depart, triggering the denials.

Knowing the reason for the change, however, did not end our inquiry. Listening to stakeholders, we learned there were inconsistencies in the way USCIS was enforcing the instructions. While the Service Center Operations Directorate was issuing denials, the Field Operations Directorate still approved renewal applications where the applicants had traveled abroad as long as they returned to the United States with previously approved and still valid advance parole documents. This led to additional confusion.

Furthermore, there were practical implications to the new practice of denying these renewals for advance parole. Applicants were inconvenienced, to be sure, but could re-file the parole application—in many cases without a fee. Not surprisingly, thousands of advance parole applications were re-filed, resulting in more work for the agency. In addition, if an individual did not receive a decision on the re-filed advance parole before a planned trip (processing times could take 6 months), the applicant would appear at a local USCIS field office to apply for an emergency advance parole.

In the end, therefore, USCIS was expending substantial resources to deny and re-adjudicate parole applications for: (1) individuals who it had already determined were eligible for an original advance parole document; and (2) were in fact traveling with authorization under the original parole document that was still valid upon return.

The Ombudsman’s Office met numerous times with USCIS over the course of a year to discuss these issues surrounding advance parole. Our staff made the case that the denials, while authorized by law, did not make operational sense and did not in reality further the spirit of the policy encapsulated by the instructions.

Finally, in November, Director Cissna approved a change in policy that upheld the original interpretation while giving meaning to the instructions: “If you file Form I-

131, *Application for Travel Document*, to request an advance parole document and depart the United States without possession of an advance parole document that is valid for the entire time you are abroad, your Form I-131 will be considered abandoned. At times, an individual may have an approved advance parole document while a second one is pending. Individuals may travel on the approved advance parole document, provided the document is valid for the entire duration of their time abroad. The pending Form I-131 will not be considered abandoned in this situation."

Director Cissna was gracious enough to announce the change during the Ombudsman's Annual Conference here in Washington, D.C., and our office was pleased that our tenacity, coupled with a strong partnership with our colleagues at USCIS, helped the Ombudsman's Office make a meaningful impact on the stakeholders in our immigration system.

The Ombudsman hosts a monthly public teleconference series to share information about relevant topics and provide an opportunity to hear feedback from the community about issues related to the delivery of immigration benefits and services.



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