

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

RASUL ROE, *et al.*,

Plaintiffs,

v.

ALEJANDRO N. MAYORKAS, *et al.*

Defendants.

No. 22-cv-10808-ADB

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR  
MOTION FOR COMPLETION OF DEFICIENT ADMINISTRATIVE RECORD,  
AND FOR RECORD SUPPLEMENTATION THROUGH LIMITED DISCOVERY**

Dated: July 19, 2023

Susan M. Finegan (BBO #559156)  
John F. Quill (BBO #632216)  
Andrew H. DeVoogd (BBO #670203)  
Andrew N. Nathanson (BBO #548684)  
Kenneth P. Monroe (BBO #696381)  
Michael P. Molstad (BBO #707524)  
MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY AND POPEO, P.C.  
One Financial Center  
Boston, MA 02111  
617.542.6000  
SMFinegan@mintz.com

Adriana Lafaille (BBO #680210)  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF MASSACHUSETTS, INC.  
One Center Plaza, Suite 850  
Boston, MA 02108  
617.482.3170  
ALafaille@aclum.org

*Counsel for Plaintiffs*

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## INTRODUCTION

This Court ordered Defendants to produce the complete administrative record for this case, including the “records relevant to changes in the standards applied to applications from Afghan nationals remaining in Afghanistan and the pace of adjudications of Afghan humanitarian parole applications.” *See* ECF No. 69 at 38. Defendants’ production is deficient, and hinders the ability of this Court to decide the merits of this case. *See, e.g., Sierra Club v. United States Army Corps. of Eng’rs*, 2022 U.S. Dist. LEXIS 132113, at \*4 (D. Me. July 26, 2022) (noting that court should not consider “less than” what was before agency at time it made its decision). Accordingly, Plaintiffs seek an order compelling completion of the administrative record in certain respects, including requiring a full privilege log, and allowing limited discovery to supplement the record Defendants produced.

With regard to completion, the record as produced so far omits certain categories of important information, both known, and believed, to have been improperly withheld by Defendants. This information is highly relevant to Plaintiffs’ claims and are part of “the complete” administrative record that should have been produced. Plaintiffs accordingly seek:

- Material redacted from the produced record on inapplicable claims of the “deliberative process” privilege, such as the specific agency rationales for denying Plaintiffs’ humanitarian parole applications;
- Additional documents that were before the agency at the time it rendered its decision but are missing from the record. Plaintiffs have a good-faith basis to assert that such materials exist based on (1) Defendants’ concession that they have omitted an unspecified number of documents from the record without noting them on a privilege log, and (2) the dearth of materials in the administrative record provided that are reflective of the decision making process at issue in this case.
- A privilege log including *all* documents withheld from the administrative record on grounds of privilege, not merely those documents that were provided in partially-redacted form. Plaintiffs respectfully request that Defendants be ordered to provide this log prior to a hearing on this motion.

Further, given the problems with Defendants' production thus far, supplementation of the record in this case through targeted discovery regarding the approach to the search, compilation, and production of the record is amply justified. Additional targeted discovery is also necessary for information highly relevant to and probative of Plaintiffs' undue delay claims that is beyond the scope of even a properly completed administrative record.

### **FACTUAL BACKGROUND**

This is a unique case in which the government denied the existence of the challenged agency action, purported to be too confused about Plaintiffs' claims to produce the administrative record, and refused repeated efforts by Plaintiffs to meet and confer regarding that record. More than one year after this litigation began, Defendants finally produced what they claim is the complete administrative record. The full scope of that production is (1) Plaintiffs' individual files related to their humanitarian parole ("HP") applications, and (2) a collection of 130 documents from USCIS. The documents consist of, for example, a handful of policy manual drafts, some internal emails, sample forms, a slide deck or two, and excerpts from the Congressional Record.

Plaintiffs filed their Complaint in this matter over a year ago, alleging real-world exigencies, including the potential for the ultimate irreparable harm of death due to Defendants' failure to timely adjudicate their parole applications according to proper agency policy. *See* ECF No. 1. Plaintiffs repeatedly sought to expedite production of the administrative record. *See* ECF Nos. 25, 47. Defendants resisted these efforts. They also claimed to be confused by Plaintiffs' allegations, contending that it was therefore difficult for the Defendant agencies to identify and compile the administrative record. *See* July 7, 2022 Tr. at 8:8-11 ("[T]here's still some unclear questions from the government's side about how or what they envision as actual administrative

records with some amorphous nature of the claim.”). Defendants later claimed that they could not possibly know which records to compile.<sup>1</sup> ECF No. 55 at 4.

After this Court issued its decision on Defendants’ motion to dismiss and ordered the prompt production of the “complete, certified” administrative record, *see* ECF No. 69, Defendants produced within three weeks what they now contend is the “complete, certified” administrative record.<sup>2</sup>

In a deficiency letter, Plaintiffs argued that the record was incomplete because Defendants improperly redacted Plaintiffs’ files and failed in other ways to include documents providing a full record of the challenged change in policy. *See* DeVoogd Dec. Ex. A. Among other things, although Plaintiffs cannot know the full scope of the material that was omitted from the record, Plaintiffs pointed out that fourteen attachments referenced in emails that were part of the certified record had been omitted. Defendants later produced two of them. Defendants provided a privilege log covering redactions to documents that they produced, but denied Plaintiffs’ request for a privilege log covering the unknown number of documents that Defendants have omitted entirely from the record on the basis of some claimed, but unknown, privilege. *See* DeVoogd Dec. Ex. B. Defendants also refused Plaintiffs’ request to provide limited discovery.

### ARGUMENT

Because the administrative record is incomplete, this Court should order its completion through the production of un-redacted material and additional documents that should already have been handed over. The record should also be supplemented by way of targeted discovery. Record

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<sup>1/</sup> Over the span of many months, Plaintiffs repeatedly attempted to confer with Defendants regarding the scope of the administrative record to, among other things, address such claimed confusion. Defendants represented to this Court that they would do exactly that. *See* July 7, 2022 Tr. at 5:24-8:14 (“I think it would be appropriate to speak a little further with client agencies and *then confer with plaintiffs’ counsel*.”). Despite this, Defendants refused to engage in any such discussion.

<sup>2/</sup> Defendants declined to respond to Plaintiffs’ offer to meet and confer prior to production regarding the contents of the administrative record.

completion and supplementation are necessary to enable a full and fair assessment of the merits.

**I. This Court Should Compel Defendants to Complete the “Certified” Administrative Record, Which Is Deficient as Produced.**

Defendants must produce “the whole record” to Plaintiffs. *See* 5 U.S.C. § 706. As this Court put it, that means “the complete” record, “relevant to Plaintiffs’ remaining claims,” must be produced. ECF No. 69 at 38. This includes “*all* materials that *might have influenced* the agency’s decision, and not merely those on which the agency relied in its final decision. . . . This may include the work and recommendations of an agency decision maker’s subordinates[.]” *State of Maine v. McCarthy*, 2016 U.S. Dist. LEXIS 159940, at \*3 (D. Me. Nov. 18, 2016) (citation omitted) (emphasis added). Indeed, a basic tenet of cases challenging agency process and procedure is that “a court should generally consider neither more nor less than what was before the agency at the time it made its decision.” *Sierra Club*, 2022 U.S. Dist. LEXIS 132113, at \*4 (internal quotations omitted).

While a presumption adheres that an agency has satisfied its obligations to hand over the complete administrative record upon certification, that presumption is “rebutted by ‘clear evidence’ that the record omits relevant materials.” *Vidal v. Duke*, 2017 U.S. Dist. LEXIS 232438, at \*19 (E.D.N.Y. Oct. 17, 2017) (citation omitted). Such clear evidence is present in this case, demonstrating conclusively that the record Defendants finally produced after nearly a year of litigation is not yet complete. As a result, where (as here) “a party has rebutted the presumption of regularity by showing that documents were actually within the whole record but were omitted from the documents the agency certified,” the court should order the agency “to complete the true administrative record.” *Sierra Club*, 2022 U.S. Dist. LEXIS 132113, at \*4.

Here, Defendants have failed to provide the true and complete administrative record. They must do so in order to enable the full and fair adjudication of the merits of Plaintiffs’ claims. As

logic and fairness dictate, an agency “may not skew the [administrative record] in its favor by excluding pertinent but unfavorable information[,]” just as it may not exclude information on the grounds that the agency did not rely on that information for its final decision. *McCarthy*, 2016 U.S. Dist. LEXIS 159940, at \*2. Three main categories of deficiencies exist that Defendants’ must cure.

**A. Defendants Improperly Redacted the Explanation for Their Decision from Plaintiffs’ Individual Files.**

Defendants produced files for each Plaintiff’s humanitarian parole application which consist of application materials, USCIS correspondence, and decision information. But Defendants redacted the explanation for their decision under the deliberative process privilege. That privilege does not apply.

USCIS policy outlines the process for deciding humanitarian parole applications. Under the USCIS Humanitarian Affairs Branch Procedures Manual (the “Manual”), an adjudicating officer makes the decision whether to grant humanitarian parole. *See* DeVoogd Dec. Ex. C at USCIS-00000093 (Manual stating that the “officer must document *his or her decision*”). “Once an officer has reached a decision on the parole request, he or she must document the decision” in accordance with the Manual. *Id.* First, mirroring the two statutory bases for parole in 8 U.S.C. § 1182(d)(5), the adjudicator must fill out two sets of yes-or-no checkboxes indicating whether “a preponderance of the evidence” establishes that there are either “urgent humanitarian reason(s)” or “a significant public benefit” for the petitioner to travel to the United States. *See, e.g.,* DeVoogd Dec. Ex. D at BADI BOE-028 (example individual file excerpt).<sup>3/</sup> Next, the adjudicator must provide “detailed justification/analysis” for their conclusions regarding these two statutory bases

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<sup>3/</sup> The black boxes are redactions placed by Defendants. Plaintiffs redacted identifying information of the Plaintiff using a white text box, and the names of individuals not at the SES level pursuant to the Parties’ protective order using a text box.

for parole. *See* DeVoogd Dec. Ex. C at USCIS-00000094. If the adjudicator has determined that a statutory basis for parole exist, they must still respond to a series of questions justifying the decision whether or not to exercise discretion to grant parole. *Id.* After the adjudicator makes their decision whether or not to grant humanitarian parole, a supervisor reviews the decision to ensure that it is consistent with law, guidance, and USCIS policy. *See id.* at USCIS-00000099-100 (emphasis added). As explained in the Manual:

Supervisory review is ***not intended to be a re-adjudication of the officer's decision***. If the decision is documented on the [Parole Adjudication Worksheet] in accordance with this Procedures Manual and the Parole Training Module, and the decision is an appropriate exercise of the officer's discretion in considering all relevant factors, ***the supervisor will not substitute his or her judgment for the officer***. Rather, the supervisor should generally defer to the officer's decision, unless it is contrary to guidance or law, or is inconsistent with USCIS policy.

*See id.* (emphasis added).<sup>4</sup>

In their production of the administrative record in this case, Defendants withheld the portion of each file in which the USCIS adjudicator provided their reasoning for determining whether a statutory basis for parole exists and whether discretion should be favorably exercised. In other words, Defendants withheld the post hoc *explanation* for the reason each officer made their decision. But that is not information protected by the alleged “deliberative process” privilege, which protects material reflecting or memorializing *pre-decisional* contemplation of the outcome—it does *not* protect an explanation of the reasons why an outcome is reached.

In an attempt to justify this redaction, Defendants claim in their privilege log that the

[r]edacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's

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<sup>4/</sup> The decision may also be reviewed by a second-line supervisor. *See* DeVoogd Dec. Ex. E at AAZAR DOE-620.

application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.

*See, e.g.,* DeVoogd Dec Ex. F. Some, but not all, of these privilege log entries add that the redactions are of “pre-decision notations by the first-line adjudicator.” Further, in response to Plaintiffs’ deficiency letter challenging these redactions, Defendants claimed that:

First-line adjudicator’s write-up with his or her impressions of the application and the evidence submitted therewith is a pre-decisional and deliberative recommendation to the supervisor. The final decision is the decisional letter that Plaintiffs received, which does not reference the underlying worksheet. Such materials are textbook examples of material properly withheld under the deliberative process privilege.

*See* DeVoogd Dec Ex. B at 2.

But these explanations are belied by Defendants’ own Manual. The decision details are not covered by the deliberative process privilege for multiple reasons:

*First,* Defendants make no effort to explain their reliance on the deliberative process privilege to redact the results and explanations provided by supervisors who reviewed the decisions of adjudicatory officers regarding the Plaintiffs’ humanitarian parole applications.<sup>5/</sup> To the contrary, Defendants contend that supervisors are the true decision makers. This only undercuts their reliance on the deliberative process privilege.

*Second,* Defendants’ assertion that the adjudicating officer’s analysis is a “pre-decisional and deliberative recommendation to the supervisor” misrepresents the adjudicators’ role in the decision-making process as set forth in USCIS’s own Manual. To qualify for the deliberative process privilege, the document must be *pre*-decisional, which requires that the “author prepared the document for the purpose of assisting the agency official charged with making the agency

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<sup>5/</sup> For reasons that Plaintiffs do not understand, files for the Doe family were produced in a different format than the files for the remaining Plaintiffs. For the Doe family only, Defendants provided an unredacted section indicating that the first-line supervisor had “concur[red] with decision” without comment, while redacting information pertaining to possible review by a “second-line supervisor.” Other individual files produced redact all record of any supervisory review. *Compare* DeVoogd Dec. Ex. D and Ex. E.

decision[.]” *ACLU Found., Inc. v. United States Dep’t of Educ.*, 320 F. Supp. 3d 270, 277 (D.Mass. 2018). Pursuant to the Manual, the adjudicating officer’s notes—namely, the information Defendants withheld from the record—are *not* “impressions and recommendations to a supervisor regarding agency action.” *See* DeVogd Dec. Ex. B at 2. Instead, they document and embody ***the officer’s decision whether or not to grant parole***. *See* DeVogd Dec. Ex. C at USCIS-00000093 (Manual stating that “officer must document ***his or her decision***,” not make a recommendation to a supervisor). Because the adjudicating officer makes the decision whether or not to grant parole, notes explaining and accompanying that decision are *not* covered by the deliberative process privilege: “The deliberative process privilege does not shield documents that simply state or explain a decision the Government has already made.” *In re Pharm. Indus. Average Wholesale Price Litig.*, 254 F.R.D. 35, 40 (D. Mass. 2008). But that is precisely the information that Defendants improperly redacted here.<sup>6</sup>

*Third*, even if the adjudicators’ decisions were part of a protected deliberative process before the supervisor’s agreement (and they are not), that front-line decision became the agency’s formal decision upon supervisor review and approval. This strips away any possible deliberative process protection. That is because a “document can lose its predecisional character – and the protections of the privilege – if an agency adopts the document as its own.” *Judicial Watch Inc. v. U.S. Dep’t of Defense*, 847 F.3d 735, 739 (D.C. Cir. 2017); *accord Sluss v. United States*, 2019 U.S. Dist. LEXIS 999946, at \*11-12 (D.D.C. June 14, 2019) (if agency adopts “author’s reasoning as its own . . . the document’s predecisional character would cease”). Consequently, the adjudicator’s explanations are not covered by the deliberative-process privilege. *See, e.g., Judicial*

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<sup>6/</sup> Responding to Plaintiffs’ deficiency letter, Defendants assert that the “final decision is the decisional letter that Plaintiffs received, which does not reference the underlying worksheet.” *See* DeVogd Dec. Ex. B at 2. This claim is puzzling; the worksheet memorializes the decision to issue the decisional letter.



*Watch*, 847 F.3d at 739 (adoption of document by agency extinguishes deliberative process privilege).<sup>7/</sup>

*Fourth*, even if the redactions somehow cover information that qualifies as pre-decisional deliberative process (it does not), Plaintiffs’ need for the information outweighs any potential interest by Defendants in non-disclosure. The deliberative process privilege is “not automatic,” and the movant may make a “showing of necessity sufficient to outweigh the adverse effects the production would engender.” *In re Pharm. Indus. Average Wholesale Price Litig.*, 254 F.R.D. 35, 40 (D. Mass. 2008) (internal quotation omitted). That necessity here outweighs any possible adverse effect of production. The information withheld by Defendants shows how and why adjudicators decided HP applications—a key reflection of how the challenged change in policy played out in each case.

In weighing Plaintiffs’ necessity against possible adverse effects of disclosure, the Court balances:

(i) the relevance of the evidence sought to be protected; (ii) the availability of other evidence; (iii) the ‘seriousness’ of the litigation and the issues involved; (iv) the role of the government in the litigation; and (v) the possibility of future timidity by government employees who will be forced to recognize that their secrets are voidable.

*Id.* at 40. All of these factors weigh strongly in favor of production, and against continued withholding.

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<sup>7/</sup> In some cases, mere adoption of a decision may not be sufficient to erode deliberative process status, because the agency may adopt the recommendation without “adoption or approval of all of the [recommendation’s] reasoning.” *Abtew v. United States Dep’t of Homeland Sec.*, 808 F.3d 895, 899 (D.C. Cir. 2015). But here, USCIS cannot adopt the adjudicator’s decision without adopting the underlying reason. According to the agency’s own protocols, the adjudicator’s reasoning governs. That is because the supervisor is not permitted to “re-adjudicat[e] . . . the officer’s decision” nor “substitute his or her judgement for the officer.” *See* DeVogd Dec. Ex. C at USCIS-00000099-100. If the supervisor signs off on the adjudicator’s decision, the adjudicator’s reasoning and analysis are confirmed to be the decision of USCIS.

First, the redacted information is evidence that goes *directly* to what policy was applied to Afghan HP applicants, including the impact of the agency’s November 2021 policy in precluding the grant of applications on behalf of Afghans. As noted, this strikes at the very heart of the merits of Plaintiffs’ claims.<sup>8/</sup> Second, although there is other evidence in the administrative record that USCIS in fact changed its policy towards Afghan humanitarian parole applicants, the adjudicators’ explanations may well provide vital information about how the agency put that policy change into practice. Third, this litigation is indisputably serious. Plaintiffs remain in imminent danger, and live daily in fear of being killed. Fourth, the government and the challenged policy change are at the core of this litigation. Fifth, there is little (if any) risk of future timidity of government employees, who will still be required to document the reasons for their decisions. And any modest risk would not outweigh the other factors, and could, in any event, be mitigated by excluding materials from the public record rather than withholding them from Plaintiffs and the Court.

In sum, even if there were a plausible argument that the withheld material was privileged (and for the reasons discussed, no privilege can adhere), the relevant factors strongly favor disclosure. The necessity for Plaintiffs’ case far outweighs any possible adverse consequences of disclosure. This Court should compel the production of unredacted individual files.

**B. Known Deficiencies in the Record, as Produced, Strongly Suggest That Defendants Failed to Include Additional Information That Should Be Within the “Complete” Record.**

Even without the benefit of a privilege log, Plaintiffs know that the purported “complete, certified” administrative record is anything but complete. At a minimum, these known deficiencies in the record must be cured in order to satisfy Defendants’ obligations under the Court’s order of

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<sup>8/</sup> The evidence of what standard was applied to Afghan applicants as shown through actual adjudications is especially important here, where, up until the production of the administrative record, Defendants refused to even acknowledge a policy change had taken place. Even from the limited record production thus far, we now know this to be untrue.

April 10, 2023 that the record produced be “complete.”

For example, there is a dearth of documents reflecting the decision-making process behind the November policy guidance (or the decision to issue Afghan-specific guidance at all). *See* DeVoogd Dec. Ex. G. Defendants produced documents preceding the November 5, 2021 policy for Afghan humanitarian parole requests (and November 1, 2021 draft); but these documents do not adequately reflect or evidence the decision-making behind its adoption. Defendants only produced fifty-five documents that predate the November policy change. Very few directly relate to the Parole Requests for Afghan Nationals Interim Policies and Procedures promulgated in November 2021. Particularly:

- Two are documents discussing expediting Afghan humanitarian parole applications in late August, 2021. *See* USCIS-00000973, 975, 740, 742.<sup>9/</sup>
- Two are documents discussing the pause in adjudications in the fall of 2021 (after the decision to pause adjudications was decided). *See* USCIS-00000554, 713.
- Nine are documents discussing procedure while on handling Afghan applications leading up to and during the pause in adjudications. *See* USCIS-00000916, 720, 706, 719, 721, 709, 914. 909, 954.
- Two are documents discussing updates to the USCIS website. *See* USCIS-00000854, 858.
- Two are drafts of the standard approval/denial notice for Afghans. *See* USCIS-00000920, 702.
- Four are documents discussing medical requirements for Afghan applicants. *See* USCIS-00000886, 888, 891, 878.
- One is documents discussing vetting requirements for Afghan applicants. *See* USCIS-00000906.
- Two are documents discussing benefits for Afghan applicants who are approved. *See* USCIS-00000987, 990.
- One is a document soliciting USCIS staff members to volunteer to help with parole adjudications. *See* USCIS-00000959.

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<sup>9/</sup> Plaintiffs are happy to provide the referenced documents to the Court if it wishes to review.

Thus, of the fifty-five documents pre-dating the November policy change, approximately half of them are decidedly *not* “documents and materials directly or indirectly considered by agency decision-makers.” *See Allco Renewable Energy Ltd. v. Haaland*, 2022 U.S. Dist. LEXIS 104775, at \*9 (D. Mass. June 13, 2022). There are only approximately thirty documents that predate the November policy document that actually reflect “relevant data,” “whether the decision was based on a consideration of the relevant factors,” or the “evidence before the agency[.]” *See Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). These scant documents include information provided to Director Jaddou and the discussions of the need for a new, Afghan-specific policy. Simply put, it stretches all reasonable belief that there are not more than thirty documents reflecting the agency decision-making process. *All* such documents must be included as part of the record. *Id.* Defendants should be compelled to produce them.

To give a specific example, relevant and probative inter-agency communication undoubtedly took place—but these communications were also withheld from the record. For example, a November 5, 2021 email circulating the new policy references language received from the National Security Council; yet Defendants have not produced any communications with, or information received from, the National Security Council. Defendants claimed in their response to Plaintiffs’ deficiency letter that two withheld documents were from the National Security Council—an admission that these communications occurred and Defendants withheld them. *See* DeVogd Dec. Ex. B. Defendants also claimed that these documents are not part of the record because they were about “incorporating Afghans outside of Afghanistan into Operation Allies Welcome[.]” *See id.* Defendants’ contention that these documents are not relevant to Plaintiffs’ claims—the express scope of this Court’s Order of production—is puzzling when one looks at the produced record: the white paper Defendants refuse to produce on integrating individuals into

Operation Allies Welcome proposed the *same* factors for consideration that were ultimately included in the November humanitarian policy related to Afghans in Afghanistan. *See* DeVoogd Decl. Ex. H and Ex. I. This is not a coincidence; USCIS appears to have considered, and ultimately adopted the reasoning of, the National Security Council white paper when drafting the new policy.

These categories of documents and communications go to the heart of Plaintiffs' claims.<sup>10/</sup> They should have been included in the produced record, but were instead withheld. This unjustified omission must be cured. Beyond this, serious questions exist regarding the metes and bounds of the identification, search, collection, review, and production of the purported "complete, certified" administrative record in this case. Defendants should be compelled to revisit this effort to properly include any and all such materials that were improvidently excluded from the initial production.

### **C. Defendants Failed to Provide a Privilege Log of Withheld Documents.**

Based on Plaintiffs' knowledge thus far, Defendants failed to produce documents in their entirety without providing any privilege log to substantiate or even attempt to justify their withholding. Even without identifying these withheld documents on a privilege log, Plaintiffs know that Defendants withheld certain documents, at least because emails included in the record

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<sup>10/</sup> Yet another example is Defendants' failure to provide any documents or communications regarding the decision to pause adjudications of Afghan applications in September 2021. The USCIS Corrected Administrative Record Certificate states that the record contains documents that "relate to the decision-making process to temporarily pause parole processing in order to review parole policy and procedures[.]" But, the record only contains internal USCIS emails *transmitting the already-made decision* to pause the adjudication of Afghan applications. Between the September 1, 2021 instruction to stop expediting Afghan parole requests and the September 7, 2021 email instruction to stop issuing decisions for Afghan parole requests altogether, there are *only four documents in the record*. It is incredible to suggest that the decision to stop issuing decisions to Afghans seeking humanitarian parole in the midst of the unfolding humanitarian crisis (a pause that ended up lasting almost two months) was not discussed by the deciding agency in any communications, internal or external. Further, there are no documents in the record reflecting the decision to resume "deny[ing] cases for those who are ineligible" on October 26, 2021. Indeed, there are only communications transmitting the decision. *See* DeVoogd Decl. Ex. J. These are glaring omissions from the record. The government also purports to have supplied an administrative record relevant to "updated guidance" that USCIS silently rolled out in April of 2022. ECF No. 79-24. But other than the guidance itself and associated training materials, and materials relating to the process for obtaining agency approval of the new guidance, the record contains almost nothing that demonstrates what the agency considered or the rationales for its decision to alter its standards in part.

referenced and appeared to attach documents that Defendants failed to produce. In response to Plaintiffs' deficiency letter, Defendants claimed for the first time that most of the documents were withheld on the basis of privilege. *See* DeVogd Decl. Ex. B. As noted, Plaintiffs were unaware of these privilege claims, and have been unable to assess their purported basis or learn the number and types of documents withheld because Defendant have refused to provide a privilege log of withheld documents.<sup>11/</sup>

Plaintiffs and courts in the First Circuit are entitled to a privilege log to "assess whether an agency has properly characterized a document as part of the deliberative process." *Sierra Club*, 2022 U.S. Dist. LEXIS 132113, at \*9-10. Indeed, a "growing consensus of district courts has required an agency to submit a log if it withholds from the administrative record any deliberative process information or documents" because, among other reasons, "agencies usually have the burden of establishing a document is protected." *Id.* at \*7-8 (collecting cases).<sup>12/</sup>

Here, Defendants admitted in their response to Plaintiffs' deficiency letter that they are withholding documents as privileged. *See* DeVogd Decl. Ex. B. But these are only the specific documents that Plaintiffs were able to identify from the existing record. Absent a privilege log, Plaintiffs, and by extension the Court, cannot know how large the universe of purportedly privileged documents is, and whether the claim of privilege for any given document is valid. *See Moradi v. Morgan*, 527 F. Supp.3d 144, 155 (D. Mass. 2021) ("the government carries the burden

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<sup>11/</sup> Defendants' inconsistent and unreliable application of deliberative process privilege is shown by a document produced as part of the administrative record in this case with redactions for deliberative process. *See* DeVogd Dec. Ex. K. But Defendants produced the same document in response to a prior FOIA request, without any redactions. *See* DeVogd Dec. Ex. L. (produced in response to International Refugee Assistance Project October 26, 2021 FOIA request seeking information on Afghan humanitarian parole requests).

<sup>12/</sup> *See, e.g., State v. United States Immigration & Customs Enforcement*, 438 F. Supp.3d 216, 218 (S.D.N.Y. 2020) (explaining that even if "intra- agency materials that genuinely fall under the deliberative process privilege are not part of the administrative record," "[i]t does not follow . . . that courts should not have a role in reviewing whether privilege was properly invoked and applied to particular documents so withheld"); *Vidal*, 2017 U.S. Dist. LEXIS 232438, at \*21 ("If Defendants did not produce a complete administrative record in the first instance . . . the court does not see why it should presume that they correctly withheld privileged materials from the record").

of establishing the applicability of the” deliberative process privilege). Consistent with Plaintiffs’ long-held concern regarding the administrative record in this case, the circumstances here strongly suggest that Defendants are withholding additional, highly relevant documents. This concern has already been borne out. When Defendants reviewed the documents known by Plaintiffs as missing from the record, Defendants admitted that two documents were not actually privileged yet had been improperly withheld. Actual documents admitted to be improperly withheld on the basis of inapplicable privilege strongly supports the conclusion that there are similar documents likewise withheld by Defendants without justification.

The Court should order Defendants to produce a full log, before any hearing on this Motion, identifying every relevant document withheld as privileged, along with the justification, to allow Plaintiffs and the Court to ascertain whether Defendants’ privilege claims are valid.

**II. Given the Facial Deficiencies of the Production to Date, the Court Should Allow Targeted Discovery Related to the Lack of Completeness.**

Where, as here, “a showing is made that the record may not be complete, limited discovery is appropriate to resolve the question.” *Bar MK Ranches v. Yuetter*, 994 F.2d 735, 740 (10th Cir. 1993); *see also Vidal*, 2017 U.S. Dist. LEXIS 232438, at \*19 (if there is a suggestion that the record is not complete, the court may order “limited discovery . . . as to the completeness of the administrative record”).

Defendants’ conduct throughout this case, and the deficiencies in the produced record, amply justify targeted discovery into how Defendants compiled the administrative record. In particular, Defendants repeatedly denied Plaintiffs’ allegation that USCIS adopted a new policy governing Afghan humanitarian parole applications around November 2021. *See* ECF No. 52 at 11:20-24 (Defendants stating that “it’s the government’s position that where there has been no change in policy where none of these new quite policies are true, the government does not need to

go through notice and comment to continue a practice or policy that has always existed”); ECF No. 52 at 26:7-12 (Defendants stating that Plaintiffs’ “claim that new standards suddenly came into existence sometime in November 2021, but they don’t allege how that’s any different than the standards that apply in July 2021”). Defendants complained that they were “tasked with compiling a record tied to no specific decision.” ECF No. 55 at 17.

Despite arguing to the court that they did not know how to compile an administrative record for a policy that “has always existed,” Defendants produced a record certification from USCIS that states the record includes “documents relate[d] to the decision-making process to temporarily pause parole processing in order to review parole policy and procedures and the resulting *updated guidance that was issued in late 2021 and 2022.*” ECF No. 79-24 at 2 (emphasis added). That updated “guidance,” titled “Parole Requests for Afghan Nationals Interim Policies and Procedures,” set forth new, more restrictive, eligibility criteria specific to Afghans, with the direction that applicants “generally will be denied.” In other words: a changed policy. That is precisely what Plaintiffs alleged in their Complaint filed over a year ago. *See* ECF No. 1 at ¶¶ 53-57. This document, and others in the limited record produced so far, stand in stark contrast with the representations that Defendants made to this Court.

Plaintiffs’ need for limited discovery into how Defendants compiled the administrative record is not based solely on Defendants’ past representations to this Court. As discussed above, the record is plainly inadequate and improperly compiled on its face. Defendants’ insistence that there was no policy change affecting Afghan applicants, even at a time when they claimed they were in the process of compiling the record (*see* ECF No. 55 at 19), begs the question how they possibly compiled the record ultimately produced. It also undermines the reliability of Defendants’ certification that they have produced “the complete” record.



So too do the records produced, which include a smattering of just 54 documents from 2021 that precede this dramatic change in policy. Among other things, these documents do not reveal the rationales for the policy change, any alternatives considered, the reasons why already-issued approvals would have to be withdrawn (see ECF No. 1 at ¶ 58), or the instructions or suggestions that USCIS received from DHS headquarters or from other agencies or sub-agencies. Simply put, given the importance of the policy change and its impact on tens of thousands of applications received during a growing humanitarian crisis, there must be more. And Plaintiffs are entitled to understand the limiting guardrails Defendants employed in reaching such a slim record.

For these reasons, Plaintiffs respectfully request limited discovery into how Defendants compiled the administrative record to ensure the Plaintiffs and the Court have full access to the materials considered by USCIS when it promulgated the new policy. This limited discovery would include targeted interrogatories about the record, as well as a designee deposition of USCIS regarding the documents and information considered in formulating the new policy.

### **III. Defendants Should Supplement the Administrative Record Through Targeted Discovery Regarding Plaintiffs’ Undue Delay Claims.**

The APA requires courts to ‘compel agency action unlawfully withheld or unreasonably delayed.’” *Abdi v. Chertoff*, 589 F. Supp.2d 120, 121 (D. Mass. 2007); *see also* 5 U.S.C. § 706(1). Here, Plaintiffs are entitled to discovery on their delay and mandamus claims because this Court’s review “of agency conduct is not limited to the record in [such] an action.” *Tummino v. Von Eschenback*, 427 F. Supp. 2d 212, 231 (E.D.N.Y. 2006) (quoting *Friends of the Clearwater v. Dombeck*, 222 F.3d 552, 560 (9th Cir. 2000)). Indeed, this Court previously noted that Plaintiffs’ delay claims require “a fact-bound analysis.” *See* ECF No. 69 (Apr. 10, 2023) (quoting *Litvin v. Chertoff*, 586 F. Supp. 2d 9, 12 (D. Mass. 2008) (“The question of whether that delay is unreasonable goes to the merits of the case, not this court’s jurisdiction, and is *better addressed*

*after Parties have engaged in discovery.*”) (emphasis added)). And Defendants themselves have made the argument that “in claims asserting delay or agency inaction, *there is no record to review.*” See ECF No. 45 (July 25, 2022) (citing *Dastagir v. Blinken*, 557 F. Supp.3d 160, 164 n.5 (D.D.C. 2012) (“[I]f an agency fails to act, there is no ‘administrative record’ for a federal court to review”). Limited discovery is not only justified, but necessary.<sup>13</sup>

The “[r]esolution of a claim of unreasonable delay is ordinarily a complicated and nuanced task requiring consideration of the particular facts and circumstances before the court.” *Mashpee Wampanog Tribal Council, Inc. v. Norton*, 336 F. 3d. 1094, 1100 (D.C. Cir. 2003). To determine whether USCIS has unreasonably delayed adjudication of Plaintiffs’ applications, courts in this Circuit have applied the “TRAC” factors. See *Towns of Wellesley, Concord & Norwood v. Fed. Energy Regul. Comm’n*, 829 F.2d 275, 277 (1st Cir. 1987) (per curiam) (citing *Telecomms. Rsch. & Action Ctr. v. FCC* (“TRAC”), 750 F.2d 70, 79 (D.C. Cir. 1984)). The TRAC factors require the Court to assess: (1) a “rule of reason” governs the time agencies take to make decisions;” (2) “delays where human health and welfare are at stake are less tolerable than delays in the economic sphere;” (3) “consideration should be given to the effect of ordering agency action on agency activities of a competing or higher priority;” (4) “the court should consider the nature of the interests prejudiced by delay;” and (5) “the agency need not act improperly to hold that agency action has been unreasonably delayed.” *Town of Wellesley*, 829 F.2d at 277. To properly consider the TRAC factors, specifically the “rule of reason” and the inquiry into “the legitimacy of the reasons offered for the delay,” discovery “must be permitted.” See *Tummino*, 427 F. Supp. 2d at

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<sup>13</sup> In May 2023, USCIS issued notices indicating “Continued Parole Processing” for the Moe plaintiffs. Counsel for the Defendants has to date not responded to outreach from Plaintiffs regarding further action for the Moe family. The Boe family’s administrative motions for reconsideration have been pending since June 2022 (in the case of the applications filed by Basel Boe) and August 2022 (in the case of the applications filed by Baddar Boe). The Doe family’s motions for reconsideration have been pending since March 2022.

231. This is because “when it comes to agency inaction under 5 U.S.C. § 706(1), ‘review is not limited to the record as it existed at any single point in time, because there is no final agency action to demarcate the limits of the record.’” *Nat’l Law Ctr. On Homelessness & Poverty v. United States* VA, 842 F. Supp. 2d 127, 130 (D.C. Cir. 2012) (quoting *Friends of the Clearwater v. Dombeck*, 222 F.3d 552, 560 (9th Cir. 2000)). In other words, “if an agency fails to act, there is no ‘administrative record’ for a federal court to review.” *Id.* Discovery is therefore required because “agency delay is not necessarily a discrete event resulting from a decision based upon some sort of administrative record, but may be simply . . . . after-the-event justifications[] which may need to be explored by plaintiffs.” *Id.* at 130 (quoting *Milanes v. Chertoff*, 2008 U.S. Dist. LEXIS 39218, at \*1 (S.D.N.Y. May 13, 2008)).

In particular, to properly determine whether the delay in adjudicating Plaintiffs’ applications was reasonable, Plaintiffs and this Court need relevant and probative information outside the existing administrative record such as, for example, evidence regarding: staffing levels at relevant times; the pace of adjudications; competing agency priorities; the propriety of the agency’s inaction under the circumstances; the agency’s decision and ability to more quickly adjudicate HP applicants from other countries (e.g., Ukraine) and why; and so on. Information relevant and probative of these topics could be elicited through a small number of targeted interrogatories (no more than five to seven), requests for production of documents and things (no more than five), and a limited designee deposition of no more than five hours on the record.

All of this information will tend to prove or disprove that the pace of Afghan humanitarian parole adjudications suffered from undue delays under the circumstances. Without this information, the Court will be unable to fully and fairly determine the reasonableness of the delay through the lens of the *TRAC* framework.

## CONCLUSION

For these reasons, Plaintiffs respectfully request that this Court grant their Motion to Compel Expedited Production of the Administrative Record and order Defendants to furnish Plaintiffs with the complete, certified administrative record and allow the targeted discovery requested.

Dated: July 19, 2023

Respectfully submitted,

PLAINTIFFS

By their attorneys,

/s/ Susan M. Finegan

Susan M. Finegan (BBO #559156)

John F. Quill (BBO #632216)

Andrew H. DeVoogd (BBO #670203)

Andrew N. Nathanson (BBO #548684)

Kenneth P. Monroe (BBO #696381)

Michael P. Molstad (BBO #707524)

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND  
POPEO, P.C.

One Financial Center

Boston, MA 02111

617.542.6000

SMFinegan@mintz.com

Adriana Lafaille (BBO #680210)

AMERICAN CIVIL LIBERTIES UNION

FOUNDATION OF MASSACHUSETTS, INC.

One Center Plaza, Suite 850

Boston, MA 02108

617.482.3170

ALafaille@aclum.org

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

RASUL ROE, *et al.*,

Plaintiffs,

v.

ALEJANDRO N. MAYORKAS, *et al.*

Defendants.

No. 22-cv-10808-ADB

**DECLARATION OF ANDREW H. DEVOOGD IN SUPPORT OF PLAINTIFFS’  
MOTION FOR COMPLETION OF DEFICIENT ADMINISTRATIVE RECORD,  
AND FOR RECORD SUPPLEMENTATION THROUGH LIMITED DISCOVERY**

I, Andrew DeVoogd, declare as follows:

1. I am an attorney licensed to practice law in the Commonwealth of Massachusetts. I am a Member of the law firm Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C., and I have entered an appearance as counsel for Plaintiffs in the matter captioned above. *See* Dkt. 14.

2. I offer this Declaration in support of Plaintiffs’ Motion to Compel Completion of Deficient Administrative Record, and for Record Supplementation Through Limited Discovery (the “Motion”). I have personal knowledge of the facts set forth herein and, if called to testify regarding the same, I could competently do so.

3. My team and I extensively reviewed the production of Defendants purporting to be the certified administrative record. Based on that extensive review, I understand the Motion and its supporting memorandum to accurately describe the contents of that production, and the materials known and believed to be missing from that production.

4. Attached hereto as **Exhibit A** is a true and correct copy of the June 15, 2023, deficiency letter sent by Plaintiffs to Defendants in this matter.

5. Attached hereto as **Exhibit B** is a true and correct copy of Defendants' June 27, 2023 response to Plaintiffs' June 15, 2023 deficiency letter.

6. Attached hereto as **Exhibit C** is a true and correct copy of the administrative record document bates-stamped USCIS-00000048.

7. Attached hereto as **Exhibit D** is a true and correct copy of an excerpt of the administrative record document bates-stamped BADI BOE-028.

8. Attached hereto as **Exhibit E** is a true and correct copy of an excerpt of the administrative record document bates-stamped AAZAR DOE-620.

9. Attached hereto as **Exhibit F** is a true and correct copy of the Privilege Log for Individual Records produced by Defendants in this matter.

10. Attached hereto as **Exhibit G** is a true and correct copy of the administrative record document bates-stamped USCIS-00000031.

11. Attached hereto as **Exhibit H** is a true and correct copy of administrative record document bates-stamped USCIS-00000696.

12. Attached hereto as **Exhibit I** is a true and correct copy of the administrative record document bates-stamped USCIS-00000031.

13. Attached hereto as **Exhibit J** is a true and correct copy of the administrative record document bates-stamped USCIS-00000952.

14. Attached hereto as **Exhibit K** is a true and accurate copy of the administrative record document bates-stamped USCIS-00000706.

15. Attached hereto as **Exhibit L** is a true and accurate copy of a document produced in response to a Freedom of Information Act request made by International Refugee Assistance Project on October 26, 2021 and bates-stamped US\_0273.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19th day of July, 2023, in Boston, Massachusetts.

/s/ Andrew H. DeVoogd  
Andrew H. DeVoogd

# **Exhibit A**



**Drew H. DeVoogd**  
617 348 1611  
DHDeVoogd@mintz.com



**MINTZ**

One Financial Center  
Boston, MA 02111  
617 542 6000  
mintz.com

June 15, 2023

**VIA EMAIL**

**Re: Roe v. Mayorkas, Civil Case No. 1:22-cv-10808**

Dear Counsel:

I write regarding deficiencies in the Administrative Record and privilege log provided by the United States Citizenship and Immigration Services (“USCIS”) and the U.S. Department of Homeland Security (“DHS”) (collectively, the “Defendants”) to Plaintiffs on May 19, 2023.

Plaintiffs first requested the administrative record more than a year ago. Since then, Plaintiffs sought on numerous occasions to confer regarding the scope of the administrative record to avoid deficiencies of the kind that are now, predictably, a reality. For example, Plaintiffs sought an exchange of views to “shed light on any disputes regarding the scope of the administrative record” so that they could be resolved in a timely manner. Dkt. 48 at 6. Defendants refused. It is regrettable that this refusal prevented the parties from anticipating and resolving some of these issues sooner.

Defendants must immediately cure the deficiencies and produce the requested documents described below. To facilitate those efforts, Plaintiffs provide the below instructions so that Defendants can promptly remedy the deficiencies and avoid burdening the Court with needless motion practice. The below instructions are preliminary and non-exhaustive, and do not in any way limit Defendants’ obligations or the discovery to which Plaintiffs are entitled. As review of the Administrative Record is ongoing, Plaintiffs reserve the right to identify additional deficiencies.

**I. Plaintiffs’ Individual Files Are Improperly Redacted**

The individual records of Plaintiffs produced as part of the Administrative Record contain improper redactions that are purportedly based upon deliberative process privilege.

The privilege log provided sets forth substantially similar, generic explanations for redacting the reasons for denial for all applicants: “Redacted lines are the first line adjudicators’ analysis of the evidence submitted and details supporting the recommendation for a decision on this individual’s application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.” Some entries add that there are “pre-decisional notations by the first-line adjudicator.”

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The unredacted individual records of Plaintiffs must be produced because they do not properly fall within the deliberative process privilege. First, the redacted portions of the individual records are not “deliberative” because they are “explaining or justifying a decision already made.” *See Texaco P.R., Inc. v. Dep’t of Consumer Affairs*, 60 F.3d 867, 885 (1st Cir. 1995). The 2019 USCIS RAO Humanitarian Affairs Branch Procedures Manual (USCIS-00000048) states that the “officer adjudicates the cases,” whereas a supervisor “signs off on every case upon concurrence with the decision[.]” Further, the redacted portions of the individual records respond to prompts for, *e.g.*, “a justification/analysis regarding why parole authority should or should not be exercised favorably.” Because the officer adjudicating the case has already made the decision whether or not to grant parole, and the supervisor is merely reviewing the decision, the redacted information is not and cannot be considered “deliberative.”

Second, even if the *adjudicators’* explanations were pre-decisional—though they are not—it is impossible to extend that rationale to justify redaction of the *supervisors’* explanations for *their* decisions. The privilege log makes no effort to do so.

Third, even if the redacted portions of the individual records somehow do contain information reflecting the deliberative process, the unredacted documents should be produced because “the documents sought may shed light on alleged government malfeasance”—*i.e.*, arbitrary and capricious agency policies subject to vacatur under the APA, including the standard the government applied to Plaintiffs’ applications. *See Texaco P.R.*, 60 F.3d at 885. The government malfeasance alleged in Plaintiffs’ complaint is precisely why the unredacted documents are highly relevant and must be produced notwithstanding any claim of deliberative process privilege. Further, if necessary, the parties could be placed under a “strict order of confidentiality” such that any “concerns regarding public disclosure of [the] material[s] are significantly minimized.” *Dep’t of Economic Development v. Arthur Anderson Co.*, 139 F.R.D. 594, 596 (S.D.N.Y. 1991). For these reasons, Plaintiffs’ interest in the redacted information would outweigh any interest by the agency in protecting against public intrusion into its deliberative process. *See Texaco P.R.*, 60 F.3d at 885.

Please provide an unredacted copy of Plaintiffs’ individual files by no later than June 21, 2023.

## **II. Defendants’ Privilege Log Fails to List Any Withheld Documents**

Defendants have failed to produce a privilege log that lists documents withheld from production on the basis of privilege.

A log of documents withheld as privileged is required for the same reason as a log of redactions on documents produced is required. There is no principle reconciling Defendants’ production of a log for their redactions while failing to produce a log for documents withheld in their entirety on the basis of privilege. Plaintiffs and the Court are entitled to “assess whether an agency has properly characterized a document as part of the deliberative process.” *Sierra Club*,

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2022 U.S. Dist. LEXIS 132113, at \*9-10 (collecting decisions and ordering defendants to “prepare a log with sufficient detail to permit Plaintiffs and the Court to assess whether documents can fairly be considered within the deliberative process”); *accord State v. United States Immigration & Customs Enforcement*, 438 F. Supp.3d 216, 217 (S.D.N.Y. 2020) (granting “plaintiff’s motion to compel defendants to produce a log of deliberative documents withheld from the administrative record on the basis of asserted privilege” because “a defendant agency cannot have sole, unreviewable authority to decide which documents properly comprise the administrative record and which do not”); *In re Nielsen*, 2017 U.S. App. LEXIS 27681, at \*11 (S.D.N.Y. Dec. 27, 2017) (upholding district court order compelling government to produce privilege log of withheld documents). In addition, even if the materials were otherwise eligible for the privilege, the deliberative process privilege “is a qualified one,” and “is not absolute.” *Texaco P.R.*, 60 F.3d at 885. Thus, Plaintiffs are entitled to a log so that they and the court may evaluate the competing interests with respect to the withheld information. *See id.* In any event, factual information that may be segregated from an otherwise privileged document is not protected by the privilege and may not be withheld.

Please provide Plaintiffs with a privilege log that describes with particularity all documents withheld on the basis of any privilege and the reasons therefor by no later than June 21, 2023.

### **III. The Administrative Record Is Missing Email Attachments**

Plaintiffs have identified the following discrete documents missing from the administrative record:

- USCIS-00000471 is an email attaching a document titled, “Afghan Conditional Approval Notice Beneficiary in Afghanistan (04.11.2022) RALD JR SLS.docx.” The email was produced without the attachment.
- USCIS-00000611 is an email attaching documents titled, “Parole Lesson Plan Guidance on Targeted Harm – revisions 2-23-22.docx” and “Parole Training Module March 2019.” The email was produced without the attachments. Likewise, USCIS-00000628 is an email that also attaches “Parole Lesson Plan Guidance on Targeted Harm – revisions 2-23-22.docx.” The email was produced without the attachment.
- USCIS-00000682 is an email attaching a document titled, “Afghan Parole Procedures Framework – language from draft SOP.docx.” The email was produced without the attachment.
- USCIS is an email attaching documents titled, “SOC for IPC on Afghan Relocations\_Charters 10.15.21.pdf”; “DHS Response to the NSC White Paper on Operation Allies Welcome Future Criteria 10-19-21.docx;” and “White Paper on OAW Future Eligibility Criteria NSC 10.13.21.pdf.” Only “SOC for IPC on Afghan Relocations\_Charters 10.15.21.pdf” was produced. The other two attachments were not

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produced.

- USCIS-00000705 is an email referencing an “attached ‘think piece’” that Joanna Ruppel “discussed with D1, Chief Counsel, OP&S and others” and that she planned to “shar[e] . . . for discussion[.]” The “think piece” has not been produced.
- USCIS-00000725 references “attached charts,” “attached historical stats,” and “attached policy guidance.” None of these referenced documents have been produced.
- USCIS-00000753 is an email attaching documents titled, “IRAD Parole Overview for Public Engagement 11-5-21 final v.2.pptx,” “Ruppel Talking Points for Parole Stakeholder Event EXA 11.5.21 FINAL DS EV edits.docx,” and “Questions received for the parole stakeholder engagement 11.5.21 rev.docx.” Only “IRAD Parole Overview for Public Engagement 11-5-21 final v.2.pptx” was produced. The other two attachments were not produced.
- USCIS-00000857 is an email attaching a document titled, “RE\_next steps med requirements memo.msg.” The email was produced without the attachment.
- In USCIS-00000918, there are references to email attachments titled, “Implementing DSG Guidance for OAW CONUS Eligibility\_Revised\_v2 IRAD OPS.docx” and “DSG Briefing Memo for Review.” The email was produced without the attachments.

If you believe any of the above documents have been produced, please identify them in the record. If any of the above documents were withheld for privilege, please immediately produce a privilege log identifying them and the reason why they were withheld. Otherwise, please produce the above documents by June 21, 2023.

#### **IV. The Administrative Record Is Missing Documents from the Department of Homeland Security**

Defendants have apparently failed to produce any records from the U.S. Department of Homeland Security (“DHS”).

Defendant Alejandro N. Mayorkas is a defendant named in his official capacity as the Acting Secretary of the Department of Homeland Security. Compl. ¶ 18. Defendants have produced an Agency Record Certification only from USCIS. USCIS’ record contains no communications with Secretary Mayorkas, and only minimal communications with individuals from DHS who are not from USCIS. As shown in, for example, USCIS-0000620, Secretary Mayorkas was involved in the decision-making process regarding Afghan Humanitarian Parole. Responsive DHS documents therefore exist and should have been included in Defendants’ initial production.

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Please produce both an Agency Record Certification and any relevant documents from the Department of Homeland Security by June 21, 2023.

\* \* \* \* \*

Please confirm in writing by no later than June 16, 2023 that Defendants will take immediate action to produce the above-described categories of documents by no later than June 21, 2023. Plaintiffs reserve all rights and remedies in connection with this matter and waive none.

Very truly yours,

/s/ Drew DeVoogd

Drew H. DeVoogd, Esq.

# **Exhibit B**



**U.S. Department of Justice**  
Civil Division  
Office of Immigration Litigation  
District Court Section  
P.O. Box 868, Ben Franklin Station  
Washington, D.C. 200044

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*Via Email*

Tuesday, June 27, 2023

Drew H. DeVoogd  
617 348 1611  
DHDeVoogd@mintz.com

**Re: Roe v. Mayorkas, Civil Case No. 1:22-cv-10808**

Dear Mr. DeVoogd, *et al.*:

Defendants, Alejandro Mayorkas, *et al.*, hereby provide this letter in response to Plaintiffs' correspondence dated Thursday, June 15, 2023, in addition to undersigned counsel's email response of June 23, 2023.

As you know, the Court construed Plaintiffs' Complaint to state an Administrative Procedure Act (APA) claim challenging an "alleged policy of categorically denying or administratively closing applications for all beneficiaries remaining in Afghanistan[.]" ECF No. 69 at 29. Accordingly, Defendants assembled a broad administrative record reflecting U.S. Citizenship and Immigration Services' ("USCIS") general administration of the parole process as it relates to beneficiaries in Afghanistan, as well as the burden such process places upon agency resources affecting the pace of adjudication. Defendants note that the agency's collection and certification of the record is entitled to a presumption of regularity. *Oceana, Inc. v. Ross*, 920 F.3d 855, 865 (D.C. Cir. 2019); *Bar MK Ranches v. Yuetter*, 994 F.2d 735, 740 (10th Cir. 1993). "After an agency shows that it acted accordingly, which is generally accomplished through an affidavit, a rebuttable presumption that the agency acted in good faith emerges." *Stalcup v. CIA*, 768 F.3d 65, 74 (1st Cir. 2014). The Acting Chief of IRAD has certified that the corrected record contains the documents relied upon by his office when considering "changes in the standards applied to applications from Afghan nationals remaining in Afghanistan" and "the pace of adjudications of Afghan humanitarian parole applications."

In Plaintiffs' communication of June 15, 2023, Plaintiffs assert a variety of purported record deficiencies and issue "instructions," and reference "discovery" to which they assert they are "entitled." As a threshold matter, however, Plaintiffs have alleged only APA claims, which involve no discovery. *Atieh v. Riordan*, 727 F.3d 73, 76 (1st Cir. 2013) ("APA review, however, involves neither discovery nor trial."). Defendants also note that Plaintiffs' various allegations of record "deficiencies" have absolutely no relation to the "policies" alleged in the complaint. In any event, Defendants have considered each of Plaintiffs' contentions and have corrected the certified

administrative record and served a revised record on Plaintiffs on June 27, 2023. Additionally, Defendants offer the following views concerning each of Plaintiffs' contentions below.

## **I. Plaintiffs' Individual Files.**

Defendants agree to provide replacement pages with the First-Line Supervisor's decisions and signature unredacted. Replacement pages for AAZAR DOE-620, ABDUL DOE-617, AFSHANEH DOE-657, AFsoon DOE-611, ALI DOE-648, ALIMA DOE-640 and AMIR DOE-614 are provided herewith.

Defendants decline to waive privilege over the "brief justification/analysis" containing the first-line adjudicator's notes because these notes are pre-decisional and reveal the adjudicator's impressions and recommendations to a supervisor regarding agency action on the Form I-131. As noted in the instructions on the Parole Adjudication Worksheet, "[f]irst-line supervisory review is required for all parole cases." *See e.g.*, AAZAR DOE-620. The first-line adjudicator's write-up with his or her impressions of the application and the evidence submitted therewith is a pre-decisional and deliberative recommendation to the supervisor. The final decision is the decisional letter that Plaintiffs received, which does not reference the underlying worksheet. Such materials are textbook examples of material properly withheld under the deliberative process privilege. *See, e.g., Abteu v. U.S. Dep't of Homeland Sec.*, 808 F.3d 895, 899 (D.C. Cir. 2015) (finding a worksheet summarizing the asylum interview, assessing applicant's credibility, and making a recommended decision for supervisory review covered by deliberative process privilege); *Town of Norfolk*, 968 F.2d at 1458 (explaining deliberative process privilege covers documents prepared prior to a final decision in order to assist an agency decisionmaker in arriving at a decision and that are a direct part of the deliberative process in that it makes recommendations or expresses opinions on legal or policy matters).

Further, Plaintiffs have repeatedly taken the position that they are "not claim[ing] a right to judicial review of individual parole decisions on the merits" (ECF # 44 at 14), do "not challenge the *outcome* of any discretionary decision" (*id.*); "do not challenge the discretionary denial of any individual's application for humanitarian parole" (*id.* at 13). Plaintiffs argued they were "explicitly clear that they are not seeking review of their individual parole determinations." *Id.* at 12 (quoting *Aracely*, 319 F. Supp. 3d at 136). Thus, even if deliberative material were appropriately considered part of the administrative record—and it is not—because Plaintiffs have repeatedly claimed they are not challenging individualized determinations on Form I-131, Plaintiffs have not identified a need for the deliberative material that outweighs the Government's interest in maintaining that privilege.

## **II. Defendants' Privilege Log.**

Entirely deliberative materials are not properly included in administrative records in APA litigation. *Town of Norfolk v. U.S. Army Corps of Eng'rs*, 968 F.2d 1438, 1458 (1st Cir. 1992) (affirming district court's exclusion of material from the record where such material was "clearly protected from disclosure by the deliberative process privilege."). Because privileged materials are not properly included in the administrative record to begin with, Defendants are not required



to log them. *Oceana, Inc. v. Ross*, 920 F.3d 855, 865 (D.C. Cir. 2019) (“The District Court correctly observed that pre-decisional and deliberative documents are not part of the administrative record to begin with, so they do not need to be logged as withheld from the administrative record.” (internal marks omitted)). While Defendants willingly produced a detailed privilege log for produced documents containing redactions as a matter of good faith, Defendants decline Plaintiffs’ invitation to produce a separate log of documents that are not properly considered part of the administrative record.

Where Defendants redacted information from the handful of documents to which the deliberative process privilege applied, Defendants segregated any factual material to the maximum extent feasible without compromising the privilege. *See, e.g.*, USCIS-589-90 (waiving privilege over some recommendations, but applying targeted redactions to a proposal involving outreach to another agency). Defendants note that the log sufficiently apprises Plaintiffs of the privilege claimed over targeted redactions.

### III. Email Attachments in the Administrative Record.

Plaintiffs further claim that documents were “missing” from the administrative record. Consistent with Defendants’ email response of June 23, 2023, Defendants offer the following itemized responses in a good faith effort to resolve further record questions:

- **Plaintiffs’ Complaint:** *USCIS-00000471 is an email attaching a document titled, “Afghan Conditional Approval Notice Beneficiary in Afghanistan (04.11.2022) RALD JR SLS.docx.” The email was produced without the attachment.*
  - **Defendants’ Response:** “Afghan Conditional Approval Notice Beneficiary in Afghanistan (04.11.2022) RALD JR SLS.docx” is not part of the administrative record because it is a pre-decisional, deliberative draft with comments containing legal advice from USCIS Office of Chief Counsel – Refugee and Asylum Law Division (“RALD”). For that reason, it is also subject to attorney-client privilege, and is not part of the record for that reason independently.
- **Plaintiffs’ Complaint:** *USCIS-00000611 is an email attaching documents titled, “Parole Lesson Plan Guidance on Targeted Harm – revisions 2-23-22.docx” and “Parole Training Module March 2019.” The email was produced without the attachments. Likewise, USCIS-00000628 is an email that also attaches “Parole Lesson Plan Guidance on Targeted Harm – revisions 2-23-22.docx.” The email was produced without the attachment.*
  - **Response:** “Parole Lesson Plan Guidance on Targeted Harm – revisions 2-23-22.docx”. This document is not part of the administrative record because it is a pre-decisional, deliberative draft of proposed alterations (in track changes) to Section 5.3.3. Targeted Harm from the International Operations Manual on Humanitarian & Significant Public Benefit Parole Training Module. The final version can be found at USCIS-281. The “Parole Training Module March 2019” begins at USCIS-347.

- **Plaintiffs' Complaint:** *USCIS-00000682 is an email attaching a document titled, "Afghan Parole Procedures Framework – language from draft SOP.docx." The email was produced without the attachment.*
  - **Defendants' Response:** "Afghan Parole Procedures Framework – language from draft SOP.docx". This document is not part of the administrative record because it is a pre-decisional, deliberative draft of a proposed SOP. This draft SOP from October 25, 2021 was circulated for discussion and contains track changes and comments to facilitate a broader discussion on the creation of a finalized interim SOP. The finalized version from November 5, 2021 begins at: USCIS-516.
- **Plaintiffs' Complaint:** *USCIS is an email [sic] attaching documents titled, "SOC for IPC on Afghan Relocations\_Charters 10.15.21.pdf"; "DHS Response to the NSC White Paper on Operation Allies Welcome Future Criteria 10-19-21.docx;" and "White Paper on OAW Future Eligibility Criteria NSC 10.13.21.pdf." Only "SOC for IPC on Afghan Relocations\_Charters 10.15.21.pdf" was produced. The other two attachments were not produced.*
  - **Response:** "DHS Response to the NSC White Paper on Operation Allies Welcome Future Criteria 10-19-21.docx;" and "White Paper on OAW Future Eligibility Criteria NSC 10.13.21.pdf." Both documents are deliberative and not part of the administrative record. The white paper was a proposal from the National Security Council about incorporating Afghans outside of Afghanistan into Operation Allies Welcome, which was circulated for interagency commentary and response, including from HAB. The "DHS Response to the NSC White Paper" is a deliberative, pre-decisional draft with comments identifying points for further discussion. *See* USCIS-691. Even if the document were not deliberative, it is not relevant because USCIS was not involved in adjudicating parole requests for Afghans under OAW.
- **Plaintiffs' Complaint:** *USCIS-00000705 is an email referencing an "attached 'think piece'" that Joanna Ruppel "discussed with DI, Chief Counsel, OP&S and others" and that she planned to "shar[e] . . . for discussion[.]" The "think piece" has not been produced.*
  - **Defendants' Response:** This document is not part of the administrative record because it is protected by deliberative process privilege. The referenced "think piece" was a draft of a list of proposed recommendations for processing parole requests for Afghan nationals, drafted by International and Refugee Affairs Division ("IRAD") Chief Ruppel for pre-decisional deliberation with USCIS Director Jaddou and Office of Chief Counsel.
- **Plaintiffs' Complaint:** *USCIS-00000725 references "attached charts," "attached historical stats," and "attached policy guidance." None of these referenced documents have been produced.*
  - **Defendants' Response:** The referenced policy guidance begins at: USCIS-347. The specific information quoted is located at USCIS-405. Defendants have found the referenced charts with historical statistics and provided them in the corrected administrative record served June 27, 2023 at USCIS-732.

- ***Plaintiffs' Complaint:*** USCIS-00000753 is an email attaching documents titled, "IRAD Parole Overview for Public Engagement 11-5-21 final v.2.pptx," "Ruppel Talking Points for Parole Stakeholder Event EXA 11.5.21 FINAL DS EV edits.docx," and "Questions received for the parole stakeholder engagement 11.5.21 rev.docx." Only "IRAD Parole Overview for Public Engagement 11-5-21 final v.2.pptx" was produced. The other two attachments were not produced.
  - **Defendants' Response:** "Ruppel Talking Points for Parole Stakeholder Event EXA 11.5.21 FINAL DS EV edits.docx" are draft speakers notes underlying the presentation beginning at USCIS-760. After further review, Defendants agree to correct the administrative record to include this document beginning at USCIS-768. The "Questions received for the parole stakeholder engagement 11.5.21 rev.docx." is a draft of a question/answer sheet with input from various agency employees, including attorneys from USCIS's Office of Chief Counsel, with suggestions for IRAD Chief Ruppel on responding to stakeholder engagement session questions that might arise. Because the document is attorney client privileged, it is not part of the administrative record.
- ***Plaintiffs' Complaint:*** USCIS-00000857 is an email attaching a document titled, "RE\_next steps med requirements memo.msg." The email was produced without the attachment.
  - **Defendants' Response:** The email attachment "RE\_next steps med requirements memo.msg" was previously provided in the administrative record and is located at USCIS-850.
- ***Plaintiffs' Complaint:*** In USCIS-00000918, there are references to email attachments titled, "Implementing DSG Guidance for OAW CONUS Eligibility\_Revised\_v2 IRAD OPS.docx" and "DSG Briefing Memo for Review." The email was produced without the attachments.
  - **Defendants' Response:** "Implementing DSG Guidance for OAW CONUS Eligibility\_Revised\_v2 IRAD OPS.docx" is not part of the administrative record because it is a pre-decisional, deliberative inter-agency document containing edits in track changes as well as commentary by IRAD employees, including, e.g., IRAD Chief Ruppel. Even if it were not covered by the deliberative process privilege, the document relates to certain Afghan evacuees traveling to a U.S. Customs and Border Protection (CBP) Port of Entry in the continental United States ("CONUS"), that don't include Plaintiffs. The "DSG Briefing Memo for Review" was not an attachment to USCIS-918. It is the subject of the email thread before it was changed on December 8, 2021 (See USCIS-920). The underlying memorandum discussed is a draft of a discussion memorandum for a meeting of the Deputies Small Group ("DSG") on Operation Allies Welcome ("OAW") to discuss proposals for those processed through OAW, which Plaintiffs are not a part of. Thus, even if it were not covered by deliberative process privilege, the document does not relate to "changes in the standards applied to applications from Afghan nationals remaining in Afghanistan" or "the pace of adjudications of Afghan humanitarian parole applications" and is thus not part of the administrative record.

#### IV. Documents from the Department of Homeland Security.

Defendants decline Plaintiffs' request to produce "communications with Secretary Mayorkas" and "communications with individuals from DHS who are not from USCIS." On May 19, 2023, in addition to the thousands of pages from the individual files, Defendants produced nearly one thousand pages from the Humanitarian Affairs Branch of the International and Refugee Affairs Division ("IRAD") within the Refugee, Asylum, and International Operations ("RAIO") Directorate within USCIS, including correspondence to and from USCIS Director Jaddou. It was this office that processed Plaintiffs' Form I-131s. Plaintiffs do not allege otherwise. Complaint, ¶ 39 ("At USCIS, humanitarian parole applications are adjudicated by the agency's Humanitarian Affairs Branch."). All of Plaintiffs' "policy" allegations are leveled at USCIS. *See, e.g., id.* ¶ 3 ("...USCIS changed the rules, setting new standards..."); ¶ III ("...USCIS changed course and adopted standards and procedures that facilitated the denial of applications."); ¶ 54 ("... USCIS abandoned those standards and adopted new ones."); ¶ 180 ("on information and belief, USCIS altered these standards..."), ¶ 181 ("...USCIS's change in standards..."); ¶ 182 ("...USCIS [] unlawfully decided..."); ¶ 184 ("USCIS's change to its adjudication standards...."); ¶ 192 ("...new standards adopted by USCIS..."); ¶ 193 ("USCIS's promulgation of new standards...."); ¶ 203 ("...USCIS has improperly changed its adjudication standards..."). As such, DHS records are not part of the administrative record on review and Plaintiffs are not entitled to the files of Departmental-level components or third-party agencies.

Respectfully,

BRIAN M. BOYNTON  
*Principal Deputy Assistant Attorney General*  
Civil Division

WILLIAM C. PEACHEY  
*Director*  
Office of Immigration Litigation  
District Court Section

YAMILETH G. DAVILA  
*Assistant Director*

MICHAEL A. CELONE  
*Senior Litigation Counsel*

SEAN L. KING  
*Trial Attorney*

/s/ David J. Byerley  
DAVID J. BYERLEY  
*Trial Attorney*  
Office of Immigration Litigation  
District Court Section  
United States Department of Justice  
P.O. Box 868 Ben Franklin Station  
Washington, D.C. 20044  
202-532-4523 | David.Byerley@usdoj.gov

*Attorneys for Defendants*

# **Exhibit C**

## **Refugee, Asylum, and International Operations Directorate**

# **Humanitarian Affairs Branch Procedures Manual**



## **U.S. Citizenship and Immigration Services**

**Last Revision: July 9, 2019**



The Refugee, Asylum, and International Operations (RAIO) Directorate will issue numbered releases and versions of this SOP, as necessary, to track revisions over time. The date on the cover page will reflect the most recent release date of the SOP. IO will track subsequent updates to the SOP in the chart below. For example, a first release of the SOP on April 15, 2016, will be Release 1.0. A second revision of the SOP would be Release 1.1, and the third revision would be Release 1.2. If the document is significantly changed, IO will issue it as a new Release (2.0) and the version tracking will start over (2.1, 2.2, and so on).

Only RAIO can issue revised versions or releases of this SOP. Field or District Office personnel who identify necessary changes should communicate them to the document owner listed below.

#### Schedule of Revisions

Date	Pages	Description of Changes	Made By	Version Number
04/15/2016		Initial Draft/Release of Document		1.0
09/25/2017		Updated Version to reflect significant changes/additions since last major document release.	WBird	2.0
07/11/2019		Updated Version to reflect significant changes/additions since last major document release. (pending OCC review)	WBird	3.0

Document Owner(s): John "Wally" Bird  
 Telephone: 202-245-2111  
 Email: John.W.Bird@uscis.dhs.gov



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## I. INTRODUCTION

### A. Purpose and Scope

This manual establishes operational guidance and procedures for HAB adjudicators and staff to adjudicate and process advance authorization for parole requests made using Form I-131, Application for Travel Document, and for parole requested by a U.S. Government Agency on behalf of:

- An individual outside of the United States; or
- An individual previously granted parole.

This guidance should be followed in conjunction with the HAB [Parole Training Module](#), which provides substantive, policy guidance on how to determine eligibility for parole.

There are several entities within the Department of Homeland Security (DHS) that adjudicate requests for parole under section 212(d)(5) of the Immigration and Nationality Act (INA, or the Act). The guidance contained in this manual applies only to requests for parole documents processed by the Humanitarian Affairs Branch (HAB).

This guidance does not apply to requests for initial parole under the Cuban Family Reunification Program (CFRP), the Haitian Family Reunification Program (HFRP), or any other type of parole program administered by DHS, or to specific parole programs, but may apply to requests for re-parole from individuals initially approved through a specific parole program.

Throughout this manual, the terms “parole request,” “request for parole,” and “parole application” refer to applications requesting advance authorization for parole for an individual outside the United States or re-parole for individuals already paroled into the United States and may be used interchangeably.

## II. PAROLE OVERVIEW

### A. Overview of Parole

Parole is an extraordinary measure used sparingly to bring an alien, who may be inadmissible or have no other option, into the United States for a temporary period. Parole is generally not intended to be used to circumvent normal visa processing procedures and timelines, bypass inadmissibility waiver processing, replace established refugee processing channels, or to immigrate to the United States.<sup>1</sup>

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<sup>1</sup> February 20, 2017 Memorandum from Secretary, John Kelly to USCIS Acting Director Lori Scialabba, “Implementing the President’s Border Security and Immigration Enforcement Improvement Policies”, Section K, “Proper Use of Parole Authority Pursuant to Section 212(d)(5) of the INA, page. 9.  
[https://www.dhs.gov/sites/default/files/publications/17\\_0220\\_S1\\_Implementing-the-Presidents-Border-Security-Immigration-Enforcement-Improvement-Policies.pdf](https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Implementing-the-Presidents-Border-Security-Immigration-Enforcement-Improvement-Policies.pdf).



The Secretary of Homeland Security may, in his discretion, parole into the United States temporarily, under such conditions as he may prescribe, on a case by case basis, for urgent humanitarian reasons or significant public benefit, any alien applying for admission to the United States. Historically, parole requests filed with the Humanitarian Affairs Branch (HAB) have been referred to as “humanitarian parole” because the overwhelming majority of parole requests are for humanitarian reasons. However, it is important to note that parole requests filed with HAB may be based on either (or both) urgent humanitarian or significant public benefit reasons.

There are two ways parole can be requested from USCIS on behalf of an individual outside the United States: one, an individual may file a request using the Form I-131, Application for Travel Document, or, two, a U.S. Government Executive Branch agency may file on behalf of an individual.

Once HAB has approved a parole request, responsibility for processing travel documentation abroad rests with the Department of State (DOS) Bureau of Consular Affairs (CA). Upon the grant of such a request, DOS collects biometrics, verifies identity and issues a travel document to the beneficiary. Customs and Border Protection (CBP) then makes the ultimate decision whether to parole the individual upon arrival at a U.S. port of entry.

Individuals who have been paroled into the United States may in some circumstances need to remain longer than their originally authorized period of stay. As there is no regulatory provision to extend parole authorization for an individual who has already been paroled into the United States, applicants in such cases can request “re-parole” to remain authorized to be in the country. USCIS/HAB can only “re-parole” a beneficiary when it authorized the initial parole.

Upon receipt of a parole request, HAB determines whether grounds exist for the granting of parole or re-parole. If so, HAB will provide advance parole authorization to either a Department of State consular official overseas for the issuance of a travel document enabling the beneficiary to present him or herself to a Customs and Border Protection official at a U.S. port of entry for final parole authorization, or in the case of re-parole, to a USCIS field office official to issue documentation of re-parole for the person previously paroled into the United States.

Public information on the humanitarian parole process administered by USCIS is located online at: <https://www.uscis.gov/humanitarian/humanitarian-or-significant-public-benefit-parole-individuals-outside-united-states>

## **B. General Eligibility Criteria**

Officers adjudicate each parole request on a case-by-case basis. Reasons parole is requested include, but are not limited to: obtaining medical treatment, for family unification or other family-related reasons, to attend legal proceedings, or in extremely limited circumstances, for protection purposes.

To be eligible for parole into the United States, a petitioner must:

- Apply for parole in accordance with form instructions or in accordance with U.S. government agency request procedures;
- Petition for or be an applicant for admission to the United States;
- Establish that the parole request is based on urgent humanitarian reasons or is for significant public benefit; and
- Establish that advance authorization of parole should be approved as a matter of discretion.

The HAB [Parole Training Module](#) discusses each of these four criteria in detail.

## **C. Parties to the Parole Request**

Anyone can request parole on his or her own behalf, or on behalf of an individual who is outside the United States, or inside the country if requesting re-parole. Additionally, U.S. government executive branch agencies may request parole on behalf of individuals outside the United States via a U.S. Government Agency Parole Request template.

### **1. Petitioner**

The parole petitioner is any individual or entity that files Form I-131, Application for Travel Document, or the U.S. government executive agency that submits the Request for Parole Template on behalf of an individual outside the U.S. or inside the U.S. if requesting re-parole, if previously granted parole by HAB. Individuals may also self-petition for advance authorization for parole if they are outside the U.S. (or re-parole if inside the U.S.).

### **2. Beneficiary**

The parole beneficiary must be outside the U.S. seeking to enter the U.S. or if in the U.S., have already been granted parole (e.g. is seeking re-parole).

### **3. Sponsor**

By policy, the parole sponsor, whether a person or other entity, establishes a financial obligation to provide support to the beneficiary while he or she is in the U.S. for the duration of the parole authorization period. While not required to have immigration status in the United States, in most cases, the sponsor is a legal permanent resident (LPR) or citizen of the United States. As a matter of policy, the parole sponsor should demonstrate sufficient income or financial resources to support the parolee, comparable to the Health and Human Services (HHS) Federal poverty guidelines for the household size in question. The sponsor, in most cases, is required to submit a properly executed I-134, Affidavit of Support, for each parole request in order to establish the adequacy of financial resources to support the parolee during his or her stay in the U.S. A beneficiary is able to self-sponsor and meet the same resource requirements. Occasionally, a non-profit organization or medical institution may serve as a sponsor on a parole application. In those instances, if an employee of the organization cannot execute an I-134, HAB may accept a letter of commitment from the organization, and other evidence establishing the sufficiency of



resources. See the [Parole Training Module](#), section 3.2 regarding the exercise of discretion for more information regarding considerations related to support in the United States.

## **D. Parole Characteristics and Status**

Authorization of parole does not constitute an admission to the U.S. A parolee is authorized parole and permitted physical entry into the U.S. by a Customs and Border Protection (CBP) officer at a port-of-entry following inspection. CBP authorizes parole, by issuing the parolee an I-94, Arrival/Departure Record, documenting the length of his or her authorized parole period.

While parole is lawful presence in the U.S., the parolee technically remains an applicant for admission. Parole does not confer immigration status and does not provide a path to permanent residency or the ability to obtain lawful immigration status. However, a parolee may be able to obtain lawful status in the U.S. through other means. For example, a Cuban national paroled into the U.S. may be eligible to adjust from parole to lawful permanent resident status under the Cuban Adjustment Act; a person paroled into the US may apply for asylum or may obtain Temporary Protected Status (TPS) or may adjust status through an immigrant petition filed on their behalf, etc.

USCIS may grant a parolee temporary employment authorization as a matter of discretion if the parolee requests an Employment Authorization Document (EAD) by filing Form I-765, Application for Employment Authorization.

Parole terminates automatically upon the parolee's departure from the U.S. or upon the expiration of the authorized parole period annotated on Form I-94, Arrival/Departure Record, whichever is sooner. While not automatic, parole may also be terminated, upon notice, in certain circumstances, such as when the purpose for the parole was authorized was accomplished.

## **E. Filing Methods**

Advance authorization for parole may be requested by one of two filing methods:

- Filing a Form I-131, Application for Travel Document, or
- The submission of a U.S. Government Agency Parole Request template.

### **1. Filing Form I-131, Application for Travel Document**

The most common method to request parole is for an individual or entity to file Form I-131, Application for Travel Document, with the designated USCIS Lockbox responsible for receiving parole applications, along with the requisite fee or fee waiver request, Form I-134, Affidavit of Support, and supporting documentation to establish the reasons for the request. The Lockbox staff receives and processes the application and then forwards it to the Humanitarian Affairs Branch in Washington, D.C. for adjudication. The HAB Branch Chief, has the discretion to authorize the acceptance of applications filed directly with HAB at HQ, or at a USCIS office or U.S. Consulate abroad.



## **2. U.S. Government Agency Request for Parole**

A U.S. government agency may request parole on behalf of an individual outside the United States. These infrequent parole requests are generally premised on the reasonable expectation by the requesting agency that there are significant public benefit reasons for the alien's presence in the U.S. relating to one of the following:

- National security interests;
- Advancing foreign policy goals; or
- Other advantages or benefits to the United States.

The U.S. government agency submitting the parole request is not required to file Form I-131, or to submit a filing fee. The parole request is filed directly with HAB by submitting a completed U.S. Government Agency Parole Request template. The template will include an attestation of the need for parole, sponsorship documents, identity documents for the parolee and sponsor, and any additional documents that support the parole request. DHS components may submit requests as DHS self-referrals.

## **F. Requests for Re-Parole**

As there is no regulatory provision for extension of parole authorization for an individual who has already been paroled into the United States, HAB may re-parole a parole beneficiary when HAB authorized the initial parole.

If parole was originally requested via the filing of a Form I-131, the petitioner may request re-parole by filing a new Form I-131 (marking "Re-Parole" across the top of the application and checking box 1.e or 1.f on Part Two of the form to indicate that parole is being requested for an individual residing outside the U.S.), with requisite fees and supporting documentation to demonstrate the need for the re-parole, and is encouraged to file for re-parole 90 days in advance of the expiration of the authorized parole period, to allow sufficient processing time, and to ensure continued lawful presence.

For the beneficiary of a government agency parole request, the U.S. government agency that made the initial request should submit a request for re-parole and can use the U.S. Government Agency Parole Request Template, or the individual may file Form I-131, Application for Travel Document, to request to be re-paroled. Re-parole requests for beneficiaries whose initial parole was authorized by HAB are adjudicated using the same standards and procedures as those followed for initial filings made by, or on behalf of, individuals outside of the United States.

## **III. LEGAL AUTHORITY AND JURISDICTION**

The following legal authorities and resources provide guidance for the adjudication and processing of requests for parole filed with HAB. While adjudicators may not need to refer to these sources on a daily basis, it is important to be familiar with these materials. The resources below are not inclusive of all legal authority. For further reference, please see HAB's [Parole Training Module](#).

## A. Legal Authority

### 1. Statute

While USCIS, ICE, and CBP components divide delegation of the Secretary's parole authority, they all derive such authority from the Immigration and Nationality Act (INA), Section 212(d)(5)(A), which states, "the Attorney General may...in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission into the United States."<sup>2</sup>

The Homeland Security Act of 2002, P.L. 107-29, Sections 402 and 421, transfers authority for immigration matters, including parole, to the Secretary of DHS.

### 2. Regulations

8 CFR 212.5 section (d) pertains to the parole of aliens into the U.S. and provides USCIS regulatory authority to establish terms and conditions for parole once authorized. Examples of the types of conditions listed at 8 CFR 212.5 (d) include that the individual be required to provide "reasonable assurances" that he or she "will appear at all hearings and/or depart the United States when required to do so." 8 CFR 212.5(d) also provides guidance on the termination of parole.

### 3. Case Law<sup>3</sup>

There is little applicable or relevant case law governing HAB parole adjudications. The courts have generally recognized the Department's broad discretion to authorize parole and have been reluctant to review such determinations. "The INA expressly places parole within the Secretary's discretion and states that judicial review is not available to review "any . . . decision or action of the Attorney General or the Secretary of Homeland Security the authority for which is specified under [title II of the INA] to be in the discretion of the Attorney General or the Secretary of Homeland Security, other than the granting of [asylum]. INA § 242(a)(2)(B)(ii), 8 U.S.C. § 1252(a)(2)(B)(ii). (*See, e.g., Bolante v. Keisler*, 506 F.3d 618, 621 (7th Cir. 2007); *Jeanty*, 204 F. Supp. 2d at 1382. *But see Bertrand v. Sava*, 684 F.2d 204, 211-13 (2d Cir. 1982) (indicating that "narrow" review of parole determinations may be available under "facially legitimate and bona fide reason" standard).

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<sup>2</sup> Categorizing parole types helps prospective parole beneficiaries direct their applications to the appropriate agency and facilitates DHS tracking, but all of these categories derive from the authority prescribed in section 212(d)(5) of the Act.

<sup>3</sup> Case law consists of published decisions from the federal courts, the U.S. Supreme Court, Appellate Courts and U.S. District Courts, as well as the Board of Immigration Appeals (BIA).



#### **4. Parole Memorandum of Agreement between DHS Components<sup>4</sup>**

A September 2008 [Memorandum of Agreement](#) (MOA), titled “Coordinating the Concurrent Exercise of USCIS, U.S. Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) of the Secretary’s Parole Authority under INA 212(d)(5)(A) with respect to Certain Aliens Located Outside the U.S.” identifies the types of cases over which USCIS has primary jurisdiction.

#### **5. Legal and HQ Memoranda**

The USCIS Office of Chief Counsel occasionally issues guidance related to humanitarian or significant public benefit parole. Additionally, DHS, USCIS, and the RAIO Directorate issue guidance on substantive or procedural issues. Guidance relevant to parole adjudication and processing is posted on the HAB ECN.

#### **6. Foreign Affairs Manual**

The Foreign Affairs Manual (FAM) details the policies and structure of the Department of State (DOS) and provides operational instruction for DOS employees.

Section 9 FAM 202.3-4(D) provides procedural guidance to State Department employees responsible for issuing travel documents such as boarding foils for individuals who are authorized parole by USCIS IO. Additionally, 9 FAM 202.3 provides guidance to the State Department on the process for making a U.S. Government Agency Parole Request for an individual outside the U.S. for urgent humanitarian and/or significant public benefit reasons.

#### **7. USCIS Policy and Adjudications Manuals**

The [Adjudicator's Field Manual](#) (AFM), the [USCIS Policy Manual](#), and the [Consolidated Handbook of Adjudication Procedures](#) (CHAP) are comprehensive "how to" manuals detailing policies and procedures for all aspects of USCIS adjudications. They are intended to be used in concert with the INA, 8 CFR, and other agency guidance.

### **B. Other Resources**

#### **1. Form I-131, Application for Travel Document, and Filing Instructions**

Form I-131, Application for Travel Document and instructions are incorporated into DHS regulations by operation of 8 CFR 103.2(a)(1).

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<sup>4</sup> This Agreement is authorized under § 872 of the Homeland Security Act (HSA) of 2002 (Pub. L. No. 107-296) and is in accordance with the following DHS Delegation Orders: Delegation of Authority to the Commissioner of U.S. Customs and Border Protection (Delegation No. 7010.3, Sec. 2(B)(15)); Delegation of Authority to the Assistant Secretary for U.S. Immigration and Customs Enforcement (Delegation No. 7030.2, Sec. 2(M)); and Delegation of Authority to the Bureau of Citizenship and Immigration Services (Delegation No. 0150.1, Sec. 2(0)).

Form I-131 is a multi-purpose form used for a number of reasons, one of which is to request parole. Only those sections of the form instructions that apply to parole for individuals outside the U.S. (or individuals inside the U.S. requesting re-parole) are relevant.

The form, instructions and additional information on filing Form I-131 are available on the USCIS public website at [www.uscis.gov/i-131](http://www.uscis.gov/i-131). The instructions for filing Form I-131 apply to a variety of uses for the form. A [copy of the I-131](#) highlighting areas of the form and accompanying instructions relevant to humanitarian parole requests can be found on the HAB ECN.

## **2. Form I-134, Affidavit of Support and Filing Instructions**

Form I-134 is generally required to be submitted in conjunction with Form I-131 to ensure that someone has committed to financially supporting the parole beneficiary while he or she is in the U.S. The form, instructions, and additional information on filing Form I-134 and the required supporting documentation are also on the USCIS public website: [Form I-134 and instructions](#)

Although not specified in Form I-131 instructions, a letter of commitment that specifies the specific type of support that will be provided, and the length of time it will be provided, from a non-governmental organization that agrees to provide financial support for the parolee, may be accepted in lieu of Form I-134.

## **C. Jurisdiction**

The term jurisdiction refers to the adjudicative body that has the authority to decide a case. The Secretary of DHS has delegated parole authority to the following three agency components: USCIS, ICE, and CBP. The [Memorandum of Agreement](#) (MOA) between the three DHS components outlines the types of cases each component has jurisdiction over and assists with coordination of parole requests. Generally, parole requests from individuals seeking parole at the U.S. border are under the jurisdiction of CBP; parole requests relating to law enforcement or intelligence, to attend court hearings at which the U.S. government is a party, and for aliens in removal proceedings or who have been issued a final order of removal fall with ICE; and all other requests (such as urgent medical and family-related parole requests) fall under the purview of USCIS. The MOA provides a more detailed list of types of parole requests and the agency that has appropriate jurisdictional authority to adjudicate them.

Within USCIS, several adjudicating components exercise jurisdiction over various categories of parole applications. For example, while HAB adjudicates applications for advance authorization of parole filed by or on behalf of individuals residing abroad (or seeking re-parole after being authorized parole by HAB, the Service Center Operations (SCOPS) and Field Operations Directorates adjudicate Form I-131 applications for Advance Parole for persons located within the U.S. who wish to depart the U.S. and return.



## **IV. LIFECYCLE OF A PAROLE CASE**

The adjudication and processing of a parole case involves numerous steps and requires significant inter and intra agency coordination. The first step to understanding the roles in the life cycle of a parole case is to review the processing of a case from start to finish.

### **A. Filing of Parole Request**

There are several ways a parole request may be filed with HAB, but in no situation does HAB process the filing fee or request for fee waiver:

- The petitioner or self-petitioner files the Form I-131 along with the filing fee (or Form I-912, Request for Fee Waiver) with the USCIS Lockbox in Dallas. The Lockbox then forwards the parole request to HAB at HQ in Washington, D.C. after initial receipt and processing; or
- If the case is sufficiently urgent or time-sensitive, with HAB management approval, HAB accepts the case as a direct file and begins processing while it simultaneously forwards the parole request to the USCIS Lockbox for proper receipting of the fee or adjudication of a Request for Fee Waiver; or
- If the case is filed directly with HAB but is not urgent or time-sensitive, HAB administrative staff will return the application to the filer with instructions for proper filing through the appropriate USCIS Lockbox; or
- If the case is sufficiently urgent or time-sensitive, with HAB management approval, a Consulate office outside the United States may accept Form I-131 directly, along with the filing fee (which would be cashiered in by the Consulate), and forward the application to HAB at IO HQ via encrypted email. There is no requirement that the petitioner simultaneously file the parole request with the USCIS Lockbox since the fee is received and deposited at post.

### **B. Case Entry, Triage and Assignment at HAB**

HAB administrative staff enters each case into the Case and Activity Management of International Operations (CAMINO) database upon arrival. Each case is then reviewed to determine whether it warrants expedited processing due to the urgent or time-sensitive nature of the request (this is referred to as “triage”). The case is then assigned to an officer for adjudication.

Factors considered in expediting cases as urgent or time sensitive generally include matters that require travel within 30 days to meet a life-or-death circumstance. Some examples of these matters include, but are not limited to, urgent medical treatment for the applicant or for individuals who need to accompany a child or family member with a critical illness to the United States for treatment; individuals visiting a close relative who is dying, or is having surgical procedures for a critical illness or injuries, funeral services for someone who is immediate

family, government referral cases that are extremely time sensitive, certain court appearances, minors lacking parental support who are in very dangerous situations in their home country, and the health conditions of the applicant or relative in the U.S.

### **C. Adjudication of Parole Request**

The officer adjudicates the case. This includes:

- Reviewing the application and all supporting documents;
- Conducting background checks (or reviewing the results of background checks if completed by another);
- Issuing a Request for Evidence (RFE) or Notice of Intent to Deny (NOID), if necessary;
- Completing the Parole Adjudication Worksheet;
- Preparing the decision notice(s); and
- Entering appropriate information related to the case in CAMINO (and ensuring the biographic information and other data in CAMINO are accurate).

### **D. Duty Officer Assignment**

Generally, management will assign one Adjudications Officer per pay period to serve as the Duty Officer at HAB. During that time, he or she will be assigned a reduced workload in order to assist with the most urgent cases and conduct security checks of certain incoming cases (such as requests for re-parole, which must have TECS checks within 15 days of receipt), as appropriate.

### **E. 100% Supervisory Review**

A supervisor reviews and signs off on every case upon concurrence with the decision and updates the appropriate field(s) in CAMINO. A summary of the supervisory review process, the HAB [Supervisor Checklist](#), is available on the HAB ECN.

### **F. Applicant and/or Consulate/USCIS Office Notification**

#### **1. Approvals**

When an application is approved, HAB administrative staff mail the decision letter to the petitioner and attorney of record, if applicable, and email (encrypted) a parole authorization memo to the U.S. Embassy or Consulate closest to the beneficiary's residence or to the Embassy or Consulate identified by the case petitioner with a brief summary of the parole request and of any derogatory case information. Notification for re-parole approvals is sent to the USCIS office with jurisdiction over the beneficiary's residence in the United States. In both instances, the case is completed when the Supervisor Review field in CAMINO has been updated, and when the date(s) the decision notices are sent is recorded in CAMINO.



## **2. Denials**

When a case is denied, HAB administrative staff mail the appropriate decision letter to the petitioner and attorney of record, if applicable. After the Supervisor Review field has been updated, the date HAB sends the denial notice, and records it in CAMINO in the Applicant Notified field, is the date the case is complete.

## **G. Issuance of Travel Documents and Parole into the U.S. (Approvals Only)**

The Approval Notice and the Parole Authorization Memo instruct both the consular office at post and the beneficiary to take certain actions in order to finalize issuing the parole boarding foil at post. Beneficiaries must complete a Form DS-160, Application for a Nonimmigrant Visa (at no additional charge), and appear for an appointment with the consular section to verify identity and collect biometrics (for beneficiaries 14 years or older) and for additional security vetting. Unless the consular staff identifies derogatory or conflicting identity information, they will issue a boarding foil within 30 days of receipt of the Parole Authorization Memorandum. This document allows the beneficiary to travel to the U.S. within 30 days of issuance, or it will expire. Following inspection at a port of entry, CBP may, at its discretion, permit physical entry into the U.S., issuing the beneficiary an I-94, Arrival/Departure Record, documenting the length of his or her authorized parole period.

## **V. PRE-AJUDICATION**

This section of the procedures manual provides detailed guidance regarding the workflow and requirements related to parole applications from initial filing through case assignment. Sections VI and IX address the adjudication/decision-making process and post-adjudication processes, respectively.

### **A. Initial Filing Options and Lockbox Processing**

The majority of parole requests processed by HAB are requested on Form I-131 and filed with the USCIS Lockbox in Texas. It is referred to as the “Dallas Lockbox,” but two different addresses are used for Dallas Lockbox mailings. The Lockbox address in Dallas accepts parole applications sent by regular U.S. postal mail. The Lockbox address in Lewisville accepts parole applications sent via express mail or overnight courier. The Lockbox and HAB have agreed to business requirements that govern whether the Lockbox will accept or reject an application, as summarized below.

#### **1. Lockbox Accepts Form I-131, Application for Travel Document**

The Lockbox scans the I-131 submission regardless of any defects. Once scanned, the defects related to the form and/or fee are identified according to the Business Requirements. If there are no defects the application is accepted. Currently, the form I-134 is not included as an associated form in the Business Requirements, and thus has no bearing on whether the I-131 will be accepted or rejected. If there are defects, the application is routed to the Case Resolution Unit (CRU) for review and correction, if possible.

If the application meets the filing criteria, the Lockbox accepts the application and takes the following actions:

- Processes the filing fee, or favorably adjudicates the Request for Fee Waiver (Form I-912);
- Sends the petitioner Form I-797, Notice of Receipt which contains an “MSC” receipt number for tracking the filing of the parole application (Form I-131); and
- Forwards the file to HAB for adjudication.

## **2. Lockbox Rejects Form I-131, Application for Travel Document**

If the Lockbox determines that the application does not meet the basic filing criteria listed above, including denial of a Request for Fee Waiver, the application will be returned to the petitioner, or attorney of record (where present), along with Form I-797, Notice of Rejection, which instructs the petitioner how to properly file Form I-131. Prior to rejecting the application, the Lockbox forwards the case to the CRU to assess the urgency of the parole request. If the request is extremely urgent or time sensitive, the Lockbox CRU point-of-contact (POC) will contact HAB to determine whether they should forward the application to HAB via email, so that IO processing can begin immediately, prior to rejecting the application. Procedures for such cases meriting expedited processing are described below.

## **3. Lockbox Rejects Form I-131, Application for Travel Document after Forwarding to HAB**

Occasionally the Lockbox will receive an invalid or deficient payment for a parole application that has already been forwarded to HAB. In such situations, the Lockbox will reject the application. When this occurs the CRU POC will reach out to HAB to inform them of the rejection, and HAB will suspend processing until the Lockbox receives payment. If the case was determined by HAB to merit expeditious processing, HAB will reach out to the petitioner or representative of record (if any) to discuss the urgency of the parole request and to alert them that they will be receiving a rejection notice from the USCIS Lockbox and instruct them how to properly file with the Lockbox so that HAB may proceed with adjudication. HAB will begin expeditious processing of the request in anticipation of receiving confirmation from either the Lockbox or the petitioner of proper Lockbox filing, but will not approve prior to receiving payment confirmation.

## **B. Request by U.S. Government Agency**

A U.S. government agency may request parole on behalf of an individual outside the U.S. This method for requesting parole is used much less frequently than requesting parole using Form I-131. Generally, the request is based on the reasonable expectation by the requesting agency that there are significant public benefit reasons for the alien’s presence in the U.S. relating to one of the following:

- National security interests;
- Advancing U.S. foreign policy goals; or



- Other advantage or benefit to the U.S. government

The beneficiary of a U.S. Government agency parole request is not required to file a Form I-131, and no fee is paid. A U.S. Government agency requests parole directly from HAB using the U.S. Government Agency Parole Request template.

A U.S. Government agency parole request may also be made by a DHS component. This parole request method is a DHS self-referral, and is sometimes used to remedy an error made by the Department.

### **C. Expedited Filing and Urgent Parole Referrals**

Requests to expedite filing are assessed on a case-by-case basis, but applying established general parameters. Expedite criteria involve a “life or death” situation (date defined or language indicating imminent action) that may occur within 30 days of filing. Managers may approve expediting a case based on a recommendation by administrative or adjudications staff. Requests for expedited processing may be submitted to HAB by one of several means, as summarized below.

#### **1. Direct Filing with HAB**

Petitioners are not permitted to file directly with HAB unless HAB has authorized them to do so. If a parole request is sent directly to HAB and not to the Lockbox, HAB administrative staff will alert HAB managers to determine whether processing can start prior to formal acceptance at the Lockbox. If HAB management determines the parole request is so urgent that it merits immediate expedited processing, HAB administrative staff will begin processing the case. HAB administrative staff should create a copy of the filing and begin case processing and entry into CAMINO. HAB staff will forward the original application with the fee or Form I-912, Request for Fee Waiver, to the USCIS Lockbox via UPS, with a memo explaining that HAB is allowing this application to be filed directly with HAB, and that the original documents are being sent for processing. The application packet, fee payment, and memo should be sent within two (2) business days of receipt to the Lockbox address below:

USCIS  
ATTN: HP  
2501 S. State Hwy 121 Business  
Suite 400  
Lewisville, TX 75067

If management declines to start processing, administrative staff will return the application to the filer with instructions for proper filing through the USCIS Lockbox. HAB administrative staff returns applications that include forms of payment and original documents using certified mail, and uses regular mail for all other applications returned to the filer. HAB administrative staff will keep a log recording the return of applications to include date received, date returned, return tracking information (if any), reason for return, and amount and form of payment returned, if any.

## **2. Expediting a Case Filed at the Lockbox**

Occasionally HAB management becomes aware of a case that was filed at the Lockbox that is especially urgent or time-sensitive. With HAB management approval, HAB administrative staff may access the Lockbox's OnBase system to obtain a copy of the parole application package for review. If HAB management approves expediting the case, HAB can begin processing the case with the documentation printed from the OnBase system, and the Lockbox can expedite the mailing of the parole application package to HAB.

## **3. International Filing with USCIS or U.S. Embassy or Consulate**

There may be some circumstances where the parole request is sufficiently urgent or time-sensitive that HAB may authorize a petitioner abroad to submit the Form I-131 and pay the filing fee abroad by coordinating with the U.S. Embassy or Consulate where the beneficiary is residing. If international filing is authorized by HAB management, the U.S. Embassy or Consulate will accept the filing, receipt the payment using the Consulate cashier, forward the application directly to HAB via encrypted email with evidence that the filing fee was paid, and also arrange for the original application and materials to be forwarded to HAB for the A-file.

## **4. Urgent Time Sensitive Parole Requests and CBP Port of Entry Parole**

On occasion, U.S. government offices, including the USCIS Office of Legislative and Intergovernmental Affairs, U.S. Department of State Embassies and Consulates, as well as the public, request assistance from HAB regarding particularly time sensitive urgent requests for parole. All such requests received by HAB staff should be referred immediately to a HAB supervisor and the HAB Chief. Cases approved for expedited processing can take as long as ten (10) business days to process. This length of time is an approximation, and is based on the time required to receive certain security clearances, as well as to obtain required documents that must be provided in order to adjudicate the case. In instances when the urgent matter requires travel before ten business days of receipt of a parole application, HAB may refer government entities and the public to appropriate CBP contacts.

CBP operates Ports of Entry (POE) on varied schedules, as well as an Operations Center on a 24-hour-a-day schedule, and can consider parole requests requiring immediate turn-around decisions.

- For U.S. government referrals, the government office with the urgent parole request may contact CBP by email through their Operations Center 24/7 at: [OFO-FIELDLIAISON@cbp.dhs.gov](mailto:OFO-FIELDLIAISON@cbp.dhs.gov).
- For the public, CBP parole requests should be made directly to the POE managers where the parole beneficiary plans to request parole. The CBP website with POE contact information may be found at: <https://www.cbp.gov/contact/ports>.



## **D. Parole Application Received at HAB**

HAB receives parole applications approximately seven to ten days after the Lockbox processes them. The USCIS Lockbox forwards parole applications to the IO HQ address below:

USCIS International Operations Division  
ATTN: Humanitarian Affairs Branch  
999 North Capitol Street, NE  
Mailstop #2295  
Washington, DC 20529-2295

HAB administrative staff open the mail forwarded by the Lockbox the same day as receiving it when possible, or at the latest by the morning of the next business day. The mail is stamped with the date HAB received the case on the Form I-131, and also on the Form G-28 when included, even if the mail was opened the day after actual receipt.

## **E. Initial File Processing**

HAB administrative staff should only enter into CAMINO cases that are sent to HAB from the Dallas Lockbox or are otherwise determined to be within HAB's jurisdiction. Cases that are received from the Dallas Lockbox, but are not within HAB jurisdiction, will be transferred out in CAMINO to the appropriate office. Cases mistakenly forwarded to HAB from SCOPS, the Chicago Lockbox, and other offices should be returned to the sender with explanation, but not entered in CAMINO.

HAB administrative staff is responsible for creating the electronic and physical alien record, or A-file, and taking the following actions within twenty-four hours (based on normal business days) of receiving a parole application:

- Conduct a search (per detailed guidance below) to determine if an alien number (A-number) exists. Assign an A-number to the beneficiary, if one does not already exist.
- Place the application inside the empty A-file jacket that corresponds to the newly assigned A-number or place the application into a T-file if an A-number already exists;
- Place a HAB coversheet/checklist on the file cover.
- Validate the newly created A-file in CIS; and
- Record A-file creation on A-file Creation Spreadsheet.

To determine whether an A-File exists, HAB administrative staff search CIS for all possible name, alias and date of birth variations for the parole beneficiary.

### **1. Search for Existing A-Number**

When searching CIS, administrative staff use the identity information provided on the Form I-131, and contained on identity documents within the application package, such as a copy of a birth certificate or passport. If there is evidence the individual has previously applied for refugee

status through the U.S. Refugee Admissions Program (USRAP), administrative staff should raise the case to HAB management to verify whether the individual has an A-Number in WRAPS.

The CIS “Sounds like” name and exact DOB check are required (9106) for the primary name and all aliases and alternate DOB’s.

For each individual beneficiary, petitioner or sponsor, HAB administrative staff will do the following:

Use command 9106 to conduct a search with a three year date range before and after the stated date of birth to determine whether there is an existing record for the individual. Print the 9106 result screen, PF8 – History screen, and PF9 – EAD screen.

If an alien number exists for the petitioner that has not already been noted, administrative staff will write it in red ink on the Form I-131 and also initial and date the annotation next to the changes. If an alien number exists for the beneficiary, administrative staff will update CAMINO and write it in red ink on the I-131 form, and initial and date next to the changes on the I-131 form. If one or more of the additional A-numbers were issued to the beneficiary subject of the search, administrative staff will print the screens and order all additional A-files.

If an alien number cannot be found in CIS, administrative staff will print the screen (indicating “displayed name and date of birth not found”) for each name and date of birth combination.

## **2. Additional Checks and Tips**

- a. Record the results of the CIS search in CAMINO and include the printouts on the right side of the A file.
- b. If CIS generates an alias and/or alternate date of birth for the subject, that name and/or date of birth should be added to CAMINO.
- c. A-number Searches are not required for native-born U.S. citizens, as they are not listed in CIS.
- d. Additional aliases may be available on the 9202 screen. If CIS indicates “\*MORE” on the 9106 screen. Enter Command 9202 for a listing of additional aliases. This 9202 screen should be printed and any additional aliases found must be added to CAMINO.
- e. If the individual has two last names, use the first last name only in the search. The result will bring up matches that include both the first last name only and the first and second last names.
- f. Use birth year only. To search only that birth year, add a 0 after the year. If the birth year is uncertain or there are multiple DOBs, one can search multiple birth years as follows: to search both one year before and one year after add a 1 after the birth year. To search both two years before and two years after add a 2 after the birth year. This can be done up to search up to 9 years before and after the birth year. Ex. 19920, 19921, 19922, 19923, etc.
- g. Command 9222 is the search for lawful permanent residence status.
- h. Other search commands that are not required but may provide additional information for the officer: 9102 (sounds like name), 9103 (exact name), 9303 (add aliases), 9505 (file transfer).



- i. Use CIS AKA (Alias) Name Search (AKA) Screen 9104 to search for a person using alternate names. The name could be an alias. This screen is especially useful for cases where individuals have an alternate name spelling, made legal name changes, or have aliases. Selecting PF9 (or the system's equivalent) while on this screen will return to Sounds-Like Name Search (SL) Screen 9102.

If an A-number exists for the applicant, a T-file for that A-number is created, and the A-file is requested by the staff person conducting triage. This will be annotated in CAMINO under File Request. HAB Records Staff also complete the following additional processing steps if an A-number already exists for an individual when creating the T File:

- Check RAILS for A-file location;
- Add T-file in RAILS; and
- Create a Temporary File (T-File) by printing out a T-File barcode and affixing it to file jacket per guidance provided in the [USCIS Records Operation Handbook](#) (ROH).

## **F. File Validation and CAMINO Entry**

After a T-file or A-file is created, HAB administrative staff enters the case into CAMINO within one business day, when possible, of HAB's receipt of the application. HAB administrative staff will complete a "Person" record in CAMINO for each party to the parole request (petitioner, beneficiary, and sponsor), if one is not already in CAMINO, and then open a form I-131 parole case.

Guidance on how to create a person record and how to open a form I-131 parole case in CAMINO may be found in the user guide entitled "[CAMINO Personal Information QG Final](#)" on the ECN and in the [HAB CAMINO User Guides](#) on the HAB ECN page.

### **1. Creating a Person Record**

When creating the person record in CAMINO, staff must review the file for all names and dates of birth used by the person on the I-131 and I-134 and identity documents provided in support of the application (such as birth certificates and passports) and input that information into the person record. See Section VII, Background and Security Checks, Section A, Who and What to Query, for guidance on what constitutes an alias. Background checks are initiated from this information in CAMINO, and therefore it is critical that this information be accurate and complete. If a valid passport has been submitted for the beneficiary, this name must be entered as the primary name in CAMINO. An exception would be individuals who have entered the U.S. previously and have been issued a refugee travel document, EAD, or LPR card. In these cases, the name on the previously-issued USCIS document must be entered as the primary name in CAMINO. It is also mandatory to complete the fields for "Birth Country" and "Citizenship." If unknown, "Unknown" should be selected from the drop down menu. For each of the case members, complete all fields in the Person Screen for which information is available including A-number and Social Security number.

## **2. Opening a Case in CAMINO**

For cases received from the Lockbox, after the person record is found or created, staff open a Form I-131 parole case in CAMINO and enter into the “Filed” field, the date on the Lockbox Receipt Sticker affixed to the I-131, and in the “Received at RAIO” field, the receipt date stamped on the I-131 application, reflecting the date HAB received the case from the Lockbox. The “Office Filed With” field is also completed indicating USCIS, along with the “Case Receipt Number” which is the MSC number issued by the Lockbox.

In urgent situations, with HAB Chief approval, Form I-131 may be filed at a Consular Post. Overseas filings from a Consular Post would be noted in the “Office Filed With” field as Consular Post. If a petitioner was authorized to file Form I-131 overseas, the “Filed Date” is the date that the fee was receipted at the Consular Post.

For government agency parole requests, administrative staff enter into the “Received at RAIO” field the date the request was received at HAB, and enter the government agency (usually DOS) submitting the parole request under the “Requesting Agency Field,” as well as the name of a case contact (individual at the Requesting Government Agency) in the “Point of Contact” field. Staff also enter the “Parole Reason,” and the “Process by Date” which is “ASAP.”

## **3. Associating Cases in CAMINO**

Generally cases that are submitted simultaneously in a parole filing, or cases involving family members, are entered as associated cases in CAMINO. For associated case, there are links to each associated case on the CAMINO I-131 case screen page for each case making it possible to toggle between the associated cases in CAMINO. Cases that are associated are forwarded to HAB from the Lockbox rubber-banded together by the Lockbox staff, or a blue folder is placed around the cases that are related. Following a review of the cases by HAB records staff, it is determined who will be designated as the primary case member. For a family filing, a parent would be designated as the primary case in CAMINO, or for a group of siblings, the oldest sibling would be the primary case member.

At times, family, or other related cases, may arrive from the Lockbox without having been associated. If it is determined during case entry, or during case adjudication, that these cases should be associated, HAB records staff will associate the cases in CAMINO.

## **4. Updating CIS**

If identity information from a legal source document is discovered, such as a social security number or passport, and that information is not already in CIS, CIS must be updated to reflect that information. If there is a conflict between a legal source document and a currently valid passport, CIS must be updated with identity information from the passport. Only RAIO records personnel are authorized to assist with updating CIS for this purpose.



## **5. Adding Attorney or Legal Representative**

If there is a G-28 present in the filing, CAMINO is checked to determine if the attorney or legal representative is registered in CAMINO. If they are not, the information from the G-28 is entered into CAMINO, and the attorney/legal representative is attached to the case. If they are already in CAMINO, the attorney/legal representative is attached to the case updating contact information as needed (name of law firm, phone number, mailing address, or email address).

## **G. Receipt Letter Generated**

After the case and the personal data for all parties to the parole request have been entered in CAMINO, HAB administrative staff will generate from CAMINO a receipt notice for the petitioner and any representative of record, letting them know that the application has been received at HAB and will be processed in 90-120 days. The letter also includes information explaining that HAB reviews each case to determine whether it should be expedited.

Once administrative staff generates the HAB receipt letter, they will route the case to the triage point of contact to verify parole jurisdiction and determine the urgency of each parole request received.

## **H. Triage and Case Prioritization**

The target processing timeframe for HAB cases from mail receipt to triage completion is two business days. Therefore, the triage point of contact (Triage POC), or alternate, reviews all parole requests received at HAB within one business day of case entry to check that USCIS has jurisdiction to adjudicate the request and to identify the urgent cases in need of expeditious processing.

All re-parole cases must be referred by the Triage POC to the AO assigned as the Duty Officer so that TECS checks may be completed within 15 days of receipt. Depending on work priorities, the Triage POC, may also complete TECS checks on re-parole cases.

Components of the triage process are noted below:

### **1. Processing Priority**

Cases requiring immediate processing where the individual must travel within 30 calendar days to address a life or death related purpose for the parole request are considered urgent cases to be expedited. Examples include, but are not limited to, requests regarding:

- End of life emergencies within 30 calendar days;
- Urgent need for critical medical treatment within 30 calendar days;
- Attending a scheduled funeral or memorial service of a close family member within 30 calendar days;

- Other urgent cases that may not have clearly articulated an event requiring parole within 30 days but are nonetheless time sensitive, date specific, or involve particularly vulnerable individuals.

The Triage POC consults with the HAB supervisor or HAB Chief, if there is a question about whether to expeditiously process a case. Expedite cases are annotated at the top of the cover sheet with either a red sticker or notation to indicate the reason for expeditious processing.

## **2. Case Jurisdiction Review**

After determining the processing priorities, the Triage POC reviews the Form I-131, other evidence in the file, and – for any individual previously assigned an A-number – the ENFORCE Alien Removal Module (EARM), or ENFORCE in PCQS, to determine proper jurisdiction. The Triage POC may also call the EOIR Automated Case Information Hotline at 1-800-898-7180 to verify whether a beneficiary is in removal proceedings, or has a final removal order, and therefore would potentially be within ICE’s jurisdiction. Other information in the I-131, supporting documentation, or security check systems, such as ATS or PCQS, may indicate that a case is not in HAB’s jurisdiction to adjudicate, for example, if it is an application by an individual requesting advance parole to leave the country and return, instead of to enter the United States as a parolee initially. In some cases, it may be necessary to contact the attorney of record or petitioner to ask for additional information to determine jurisdiction.

If the case is determined to be out of HAB’s jurisdiction following triage, the Triage POC completes the Out of Jurisdiction checklist with notes as applicable on the bottom of the document to reflect how HAB decided the correct jurisdiction of the case. The checklist is filed on the right hand side of the file. The Triage POC then notes in the remarks section of CAMINO the steps taken to reach the determination, such as calling the attorney to verify location, reason for parole, or any other step taken to confirm the decision. If corrections were made to Section II of the I-131, “Category Type,” this is also noted in the CAMINO remarks section.

Following a jurisdiction determination by the Triage POC, administrative staff prepares a Transfer Notice for cases to inform the petitioner that their application is being forwarded to a new office providing contact information for that office. The transfer notices are referred to a HAB supervisor for review and signature. The HAB supervisor then returns the transfer notice to HAB administrative staff for mailing. There is 100% supervisory review of all transfer notices.

After concurrence by a HAB supervisor, the following steps are taken by HAB administrative staff:

1. Update the HAB mail tracking spreadsheet (Update where and when the file was sent, type of application and UPS tracking number.)
2. Mail out the Notice of Transfer to the petitioner
3. Attach a routing sheet to the file.
4. Create a UPS label.
5. Make a note in CAMINO remarks where the file is being sent and the UPS tracking number.



- a. For ICE cases, the package is mailed using CRDS (Consolidated Remote Delivery Site—the DHS mail service) via COW (Office of Records Services) so that the file may be tracked. Appropriate records staff are notified by email.
6. Transfer the case in CAMINO using the assign/transfer case module. This also closes the case, so the case does not remain pending in CAMINO.
7. Record A-file, T-file, and receipt number in the log given to the RIA records staff person and sign for accountability.
8. Charge out the file and take it to records staff to send out.

### **3. Documenting Triage and Processing Priority**

Upon completing triage, the Triage POC enters the date into the “triage” field in CAMINO, along with any notation regarding the processing priority, whether it is regular or expedited. The triage reviewer should also enter notes in the CAMINO Remarks field to indicate triage was completed or record any relevant notes regarding the file for the officer and supervisor. If a direct filing is accepted, the Triage POC will note this in the “Direct File Allowed” field in CAMINO and also enter the date the application was forwarded to the Lockbox.

The triage review includes noting on the file cover sheet, either by annotation or with a colored sticker, whether the case involves a government request, re-parole, or whether it is an initial case:

*Red – Expedite*

*Blue – Government Request*

*Green – Re-parole*

After triage is completed, cases are either transferred to a HAB supervisor for immediate assignment if they are urgent, or they are transferred to the designated administrative staff for further administrative processing or for filing for regular case assignment.

## **I. File Processing**

After triage and routing of expedite cases to a supervisor for immediate assignment, administrative staff complete several additional steps depending on the case type.

### **1. Cases in HAB’s jurisdiction**

Once a case has been triaged, administrative staff request A-files for all parole beneficiaries with an existing record. This process is based on whether the request is for an existing A-file in CIS for regular priority cases or whether the request is for an expedite case or existing A-file at the NRC.

A-files requested from the NRC are requested on an expedited basis. For expedited processing involving existing A-files that are not at the NRC, the owning office should be contacted directly to request the A-file expeditiously. If no response is received within 24 hours for cases to be processed within one business week, or within 48 hours for other expedite cases, HAB administrative staff should notify HAB management immediately and provide the contact information of the person and office that has the A-file in order to resolve the file request. All other A-files are requested regularly, but when circumstances require expediting transfer of the

A-file, the office with the A-file can be contacted to request that a scanned copy be provided to HAB.

For cases involving VAWA or U or T issues, the VSC generally will not release the file. Inquiries can be sent to [SCOSSVSCHelpDesk@uscis.dhs.gov](mailto:SCOSSVSCHelpDesk@uscis.dhs.gov) with the A-file number to be requested, and they will forward the inquiry to the correct POC with the file to address the inquiry and provide a scanned copy of the documents in the A-file.

## **2. Case Assignment**

After A-files are requested and other file preparation steps are completed, A-files must be maintained until they are assigned for adjudication. On a weekly basis, A-files pending assignment should be moved from their temporary holding location with administrative staff to the file room pending adjudication shelf (AG-6159). HAB administrative staff shelves regular cases in the file room in chronological order of receipt date so that officers receive the oldest cases for adjudication next after expedited cases.

Upon notification by a HAB supervisor, administrative staff will retrieve the noted number of cases and prepare the files for assignment according to the supervisor's specifications. Assigned cases are updated in CAMINO, RAILS, and any local tracking logs. This process should be completed by the end of the day on the second Thursday of the pay period.

The designated administrative staff record case assignments in CAMINO for tracking, and also initial and date the case coversheet line for case assignment. The case is assigned to the officer in RAILS and is also logged into any local tracking spreadsheets. Administrative staff will email HAB supervisors to confirm the specific A-files or T-files assigned to each officer for the pay period.

## **VI. ADJUDICATION**

This section provides detailed guidance regarding the workflow and requirements related to adjudicating parole applications and the decision making process.

### **A. Cases Assigned to Officer**

A supervisor will assign cases to officers for adjudication. Cases are assigned based on their need to be expedited and on the age of the case. Any cases that have been approved for expedited processing and urgent local filings are assigned first, if they have not already been assigned to the Duty Officer. Otherwise, various filing types should be distributed equitably among officers.

While the case assignment process is managed by a HAB supervisor, the physical process for retrieving files and preparing the files for assignment in CAMINO and RAILS is managed by HAB administrative staff. Unless otherwise specified by HAB management, cases should be ready for assignment to officers by the last Thursday of the pay period. Officers are notified when the files have been distributed and placed on their assigned shelf in the file room.



When officers receive assigned cases, they should prioritize their workload so that cases designated as expedite cases receive immediate attention, along with other very time-sensitive cases.

## **B. Conduct Background and Security Checks**

Identity and security checks, including a thorough search of both the file and security check systems for aliases, must be completed on petitioners, beneficiaries, and sponsors prior to approving a parole application. Background and security vetting is required for all cases which the officer believes are approvable, and should be done prior to issuing a RFE or NOID so that any issues of concern raised by the vetting results, that may require an explanation or further information from the applicant, may be included in the RFE or NOID. For cases the officer intends to deny, only a TECS check must be completed on the petitioner, beneficiary, and sponsor. The officer may however need to conduct additional security checks to inform the case decision. Information regarding a petitioner, beneficiary, or sponsor may weigh either positively or negatively when the officer exercises discretion in reaching a parole determination.

## **C. Documenting Background and Security Checks**

### **1. Documenting results in CAMINO**

Staff conducting security checks are responsible for updating background identity and security checks in the “Background Checks” module of the corresponding CAMINO person record unless the checks are automated (such as NCTC), this includes the dates the security checks are conducted and the security check results. Almost any type of system checked may be found in the security check module when an additional security check is conducted such as CPMS. However, if an officer identifies a system that needs to be checked that is not listed in CAMINO, the officer should raise the issue with a supervisor to determine whether a request should be made to add that system to the security check module in CAMINO, or whether the officer should simply note in the “Remarks” field the check that was conducted, the date, and the result.

### **2. Documenting Checks in the File**

All printouts of security check results (including Resolution Memos) are placed on the right side of the file, and should be organized in the order of the security checks listed in the CAMINO person profile

See Section VII, Background and Security Checks, for detailed information regarding required background and security checks and documenting completed checks in CAMINO and in the A-file.

## **D. Case Review**

Officers should review the entire record to determine if the required initial evidence specified in the Form I-131 instructions is present and is sufficient for the officer to adjudicate the parole request. Petitioners may submit a wide variety of supporting documents with a parole request.

The documentation presented will vary depending upon the reason for the parole request. Section 3.3 of the [Parole Training Module](#) discusses evidence in further detail including burden and standard of proof and common forms of evidence in parole cases. Relevant supporting evidence for the most common types of parole requests is also described in detail on the USCIS Humanitarian Parole website and in the HAB guide on the HAB ECN Page: [Requests for Evidence: Guidance and Templates](#).

Officers should carefully review each piece of evidence in the file and determine how it relates to the particular requirements of the adjudication, such as whether it may go to establishing the existence of urgent humanitarian reasons or significant public benefit, or whether it may go to the exercise of discretion. If the evidence submitted is incomplete or insufficient, the officer may deny the parole request or decide to send a Request for Evidence (RFE) or a Notice of Intent to Deny (NOID) in order to obtain the information needed to adjudicate the parole request.

During initial case review, if an officer determines that there are issues with the case that should be addressed prior to submitting the case for final supervisory review, the officer should consult with his or her supervisor to ensure timely processing. Although HAB administrative staff verify case jurisdiction during the intake process, officers should also verify that HAB has jurisdiction over the parole request, particularly as more information may come to light during additional file review and when full security checks are run on a case. If an officer discovers information during file review, or background and security vetting, that indicates HAB may not have jurisdiction, he or she should discuss the case with a supervisor before proceeding with the adjudication of the parole request. For example, the officer may find when conducting background and security vetting that the applicant had previously been ordered removed from the U.S. In such a case, ICE has primary jurisdiction over the parole request. However, in some circumstances, USCIS may assume jurisdiction, upon consultation with ICE; therefore, the officer should consult with a supervisor.

## **1. Parole Request**

The request for parole should be present in the file and will be in one of the following forms:

- Form I-131, Application for Travel Document if an individual is requesting parole, or
- U.S. Government Agency Parole Request template if a U.S. Government agency is requesting parole. (See Appendix A for additional guidance on State Department parole requests.)

## **2. Initial Evidence Required**

The list below indicates the initial evidence a petitioner is required to submit, per form [I-131 Instructions](#). This same evidence is also required when a U.S. government agency is requesting parole:

- a. A statement explaining:
  - The urgent humanitarian or significant public benefit reason for the parole request,



- Length of time for which parole is requested, and
  - Why the beneficiary cannot obtain a visa or waiver of inadmissibility in order to travel to the U.S. and whether the beneficiary has attempted to obtain either.
- b. Any evidence in support of the reason for the parole request and the length of time of the request. Evidence varies depending upon the reason for the parole request and could include, but is not limited to the following:
- Evidence in support of claimed family relationship or civil status,
  - Medical documentation,
  - Death certificates,
  - Evidence of the beneficiary's urgent need to travel to the U.S., or
  - Independent credible reports specific to a beneficiary that indicates the beneficiary faces imminent harm and why.
- c. Form I-134, Affidavit of Support, with evidence of sponsor's occupation and ability to provide necessary support to the parole beneficiary. In some cases, HAB may accept the following in lieu of the I-134:
- A letter of commitment from a non-governmental organization which agrees to provide financial support for the parolee, and that details the specific type of support that will be provided, and the length of time for which it will be provided, or
  - Evidence that establishes that the beneficiary is able to support him or herself while in the U.S., such as bank statements, and indication of how the beneficiary will access the funds while in the U.S.
- d. Copy of the decision on any immigration petition filed on behalf of the parole beneficiary or evidence regarding any pending immigration benefit (if applicable).
- e. Evidence of identity and immigration status of parties. While a government issued photo Identity document is needed for all parties to the parole request, HAB may be able to establish, by a check of our records, the immigration status of some of the parties to the parole request, and if so, HAB would not require additional documentation of immigration status for these individuals for whom records were found.

## **E. Officer Research**

Officers may also conduct independent research in order to inform their parole decisions. This may be research on a medical condition, a practitioner or facility, an event or country conditions, visa processing timelines, etc. If the officer uses evidence from research in reaching a decision, he or she must include that evidence in the record of proceeding.

### **1. Verify Accuracy of Biographical Data**

Officers should verify that the biographical data is correct in CAMINO and correct or update it if necessary. If there is a discrepancy between the information provided on Form I-131/ Parole

Request Template and the identity documentation submitted, the officer should enter the data from government-issued identity document(s) in CAMINO.

During this process, officers should review the parties' (petitioner, beneficiary and sponsor) biographical information for consistency and proper submission of all relevant data for security vetting, comparing the biographical data on the Form I-131 with other file data, including identity documents. In particular, officers should confirm that the name, date of birth, and place of birth match. If the officer identifies discrepancies, he or she should use a red ink pen to annotate the Form I-131 accordingly with the source and content of the discrepant data and initial and date all annotations.

Any corrections made to the personal data fields for the petitioner, beneficiary and sponsor should be noted in the remarks field of the "Person" screen in CAMINO. All alias and date of birth combinations that the officer finds while reviewing the A-file and requisite DHS/U.S. Government databases must be recorded in CAMINO. If a corrected primary name or date of birth is identified, the officer should return the A-file to HAB administrative staff to enter a correction in CIS. Security vetting, such as TECS checks, must be completed using the new information found.

Adding or changing bio-data (name, date of birth, citizenship) may require reinitiating automated checks, such as NCTC. More information on the NCTC check process is available in the following documents located on the ECN in the [National Security, Identity and Fraud Detection Section/Security Check Guidance: NCTC Submission Process Memo](#) and [NCTC Frequently Asked Questions](#). Also see section VII, Security and Background Checks, for more guidance on NCTC.

## **2. Requesting A-Files**

Additionally, if officers identify derogatory information during background and security vetting of parties to the parole request, the officer has discretion to request the A-files of the petitioner and/or sponsor, if he or she believes the files contain information relevant to the parole adjudication. See Section V. I. 1 for specific procedures to request the A file.

## **F. Decision Making**

This portion of this procedures manual will discuss the analytical framework and general principles for decision making in parole adjudications to ensure that:

- Each decision is legally sound, professional, and comprehensible; and
- Officers follow the same analytical framework for reaching a decision to ensure clarity, consistency, quality, and transparency in the adjudication process.

Parole decisions are made on a case-by-case basis, taking into account all factors and considering the totality of the circumstances. Because parole is discretionary, reasonable minds may differ on parole decisions based on substantially similar sets of facts.



Officers should refer to the [Parole Training Module](#) located on the HAB ECN page for complete guidance, including additional examples, with regard to the adjudication process.

## **G. Overview of the Decision Making Process**

When making a decision on a parole request, officers should:

- Review the file, including the Form I-131, the Form I-134, all supporting documentation provided, and the results of mandatory security checks;
- Evaluate the evidence to determine the facts. Officers should understand the nature of the parole request and the immigration status of all parties to the case;
- Considering the totality of the circumstances, apply the two-step parole analytical framework to the facts, analyzing: 1) factors relevant to urgent humanitarian reasons or significant public benefit and 2) factors relevant to discretion; and
- Determine whether to approve the request for advance authorization of parole.

## **H. Analysis of Urgent Humanitarian Reasons or Significant Public Benefit**

While the Secretary's parole authority is discretionary, the petitioner bears the burden to demonstrate that parole is needed for one or both of the statutory reasons set out in the INA: 1) "urgent humanitarian reasons" or 2) "significant public benefit."

### **1. Urgent Humanitarian Reasons**

To determine whether urgent humanitarian reasons exist, officers should evaluate the evidence presented to determine whether a certain set of factors is present. Officers will then weigh or consider these factors, which may vary depending on the type of parole request, in order to determine if there is an urgent humanitarian reason to approve the application. Officers may give some factors more weight than others, or evaluate some factors equally, but first officers will need to determine which factors, if any, are material to the decision. These factors may be initial guideposts in the analytical process and will help direct officers towards whether there is a finding of an urgent humanitarian reason, depending on the type of case. Bear in mind that ultimately, officers will have to analyze the totality of circumstances to determine whether parole should be authorized.

For purposes of parole, the following definitions are most appropriate:

*Urgent – Requiring or compelling immediate action or attention; pressing.*<sup>5</sup>

*Humanitarian - 1) Having concern for or helping to improve the welfare of people; 2) Pertaining to the saving of human lives or to the alleviation of suffering.*<sup>6</sup>

In considering whether a parole request is for urgent humanitarian reasons, officers should consider whether the request is for an immediate or compelling reason. An applicant may

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<sup>5</sup> [www.freedictionary.com](http://www.freedictionary.com)

<sup>6</sup> <http://dictionary.reference.com/browse/humanitarian>

demonstrate urgency by establishing a reason to be in the United States that calls for immediate action, such as for critical medical treatment, or to visit, assist or support a family member who is at an end of life stage of an illness or disease. However, an applicant may also demonstrate urgency by establishing a compelling or pressing reason to be in the United States that does not require immediate action, but action that is nonetheless time sensitive, such as the need for surgery to address a serious medical condition before the individual reaches a certain age.

The factors to consider in determining urgent humanitarian reasons are dependent on the type of parole request and those specific to common case types are explained further in Section 4 of the IO [Parole Training Module](#).

## **2. Significant Public Benefit**

While less common than requests based on urgent humanitarian reasons, an individual may also submit Form I-131, Application for Travel Document, to request parole based on significant public benefit reasons. There is no statutory or regulatory definition of significant public benefit. USCIS officers look at all of the circumstances presented in the case. Significant public benefit requests often are based on law enforcement and national security considerations. Significant public benefit requests may also be based on foreign or domestic policy considerations. While the beneficiary may personally benefit from the authorization of parole, the statutory standard focuses on the public benefit in extending parole. For example, a beneficiary's participation in legal proceedings may constitute a significant public benefit, because the opportunity for all relevant parties to participate in legal proceedings may be required for justice to be served.

There may be circumstances where a request is based on both urgent humanitarian reasons and significant public benefit reasons. For example, a person may be paroled if he or she has a request for medical care that involves experimental treatment or medical trials from which a larger community in the United States may benefit.

## **I. Analysis of the Exercise of Discretion**

If an officer determines that urgent humanitarian reasons and/or significant public benefit has been established, the officer should proceed to step two of the analysis, which requires the exercise of discretion, considering the totality of circumstances. Discretion is exercised on a case-by-case basis, taking into account and weighing the positive factors in the record against any negative factors, to determine if discretion should be exercised favorably.

Officers should exercise discretion based on articulable, objective, and relevant facts. Officers should review the record and consider the specific facts relevant to each case. There are certain general factors that officers should look for, which are indicated below and are explained in detail in Section 3.2 of the HAB [Parole Training Module](#). There may also be additional factors, depending on the type of parole request addressed in Section 4 of the IO [Parole Training Module](#).

Additionally, officers should take into account that not all factors may have the same weight. The fact that there is an urgent humanitarian reason or a significant public benefit for the



applicant to be in the United States is, in itself, a positive factor to take into account in exercising discretion and may be determinative such as if there are no negative factors present in a case. However, the urgent humanitarian reason or significant public benefit in itself may be outweighed by negative factors present in a case.

Each factor should be accorded appropriate weight, and generally, no single factor is controlling. The fact that there are more positive factors than negative factors does not necessarily mean that an officer should exercise discretion to deny the parole request. Officers should evaluate the evidence presented as a whole and balance the positive equities against adverse information. One or two positive discretionary factors present in a case may be afforded significant weight and tip the scales in favor of a positive exercise of discretion, despite several negative factors in a case. Conversely, one single negative factor could outweigh numerous positive factors in a case, such as if the beneficiary has an egregious criminal conviction or is a national security threat. After analyzing the positive and negative factors, the adjudicator should explain in the decision the reason for exercising discretion to approve or deny authorization for the beneficiary to be paroled in to the United States.

## **J. Length of Parole and Conditions**

After applying the two-step analytical framework and deciding to authorize parole, there are two more decisions officers need to make. The first is to determine the length of time parole should be authorized (i.e., the period of time that the beneficiary will be allowed to remain in the United States). The second is to determine whether any conditions should be placed on the parole.

### **1. Length of Parole**

The petitioner specifies the length of time for which parole is requested in Part 3 of Form I-131, Application for Travel Document. The petitioner's request is given due consideration, because the petitioner is presumably in the best position to understand how much time is required to accomplish the purpose of the parole request. However, it is important to remember that ultimately it is the deciding officer who has the authority to determine the recommended length of parole. Officers should consider the length of time requested by the applicant, in light of the evidence in support of the reason parole is requested, to determine whether the length of time requested is appropriate.

Generally, since parole is temporary in nature, the duration of parole in most cases ranges anywhere from a few months to a year. However, in certain cases, the period of parole may be longer, but may not exceed two years per parole request without approval of the HAB Chief.

### **2. Conditions**

Occasionally, officers may encounter a parole request where the petitioner has established an urgent humanitarian reason or significant public benefit and determine that discretion should be exercised favorably, but there is derogatory information in the record that may call into question the beneficiary's intention to depart the United States upon his or her period of authorized parole. In these cases, officers should also determine whether it is appropriate to place conditions on the parole approval. While conditions are not required, USCIS has regulatory authority to establish



terms and conditions when parole is authorized. See 8 CFR 212.5(c). An example of the types of conditions that may be imposed when authorizing parole is requiring the individual to provide “reasonable assurances” that he or she will “depart the United States when required to do so.” See 8 CFR 212.5(d).

See subsection R of this Section for information on placing conditions when authorizing parole.

## **K. Evidence**

In order to determine whether the beneficiary is eligible for parole, the adjudicating officer should review and evaluate all the evidence in the record. The parole application and all supporting documents are evidence. Since interviews are generally not conducted for parole cases,<sup>7</sup> the officer will need to rely on the documentary evidence in the file, such as the application, written statements or affidavits, or letters from experts. Evidence also includes any materials that the officer may discover during the course of adjudicating the parole request, such as medical research, country conditions materials, results of required background/security checks, or other relevant information. Where appropriate, a HAB officer can recommend, through their supervisor, that USCIS interview a petitioner in the United States or request that a consular officer interview a beneficiary abroad. Common forms of Evidence are discussed at length in the [Parole Training Module](#), Section 3.3, whereas evidence specific to various case types is discussed in Section 4. Also see the [Request for Evidence: Guidance and Templates](#) document on the HAB ECN page for the most common types of parole requests and relevant supporting evidence.

### **1. Determining Relevance of Evidence**

The first step to determining the relevance of any evidence is to review the nature of the request to determine what the material facts are in a case. Material facts are those that have a direct bearing on the outcome of a decision and whether parole authority should be exercised favorably.<sup>8</sup>

For example, the ability of the beneficiary to be supported in the United States is a material fact, while the relationship of the sponsor to the beneficiary is generally not material. In many cases however, there is a need to establish the family relationship of the beneficiary to another family member they are coming to see for urgent humanitarian reasons.

Relevant evidence means evidence having a tendency to make the existence of an asserted material fact more or less probable than it would be without the evidence.<sup>9</sup> Examples of relevant pieces of evidence pertaining to the example above are:

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<sup>7</sup> For certain special parole programs not covered in these materials, interviews are routinely conducted for parole applications, such as Cuban Family Reunification Cases. USCIS has discretion to require an interview for parole cases, but for most cases, interviews are not practicable because USCIS does not have the staff in place to conduct such interviews.

<sup>8</sup> See [Federal Rules of Evidence](#), Rule 401; see also “Notes of Advisory Committee on Proposed Rules.”

<sup>9</sup> See [Federal Rules of Evidence](#), Rule 401; see also “Notes of Advisory Committee on Proposed Rules.”

- Civil documents such as a birth certificate or marriage certificate that establishes the family relationship;
- A letter from the petitioner's physician providing a detailed diagnosis that establishes the condition and the prognosis for recovery; and
- Financial documents such as letters verifying the sponsor's employment and income, current tax returns or bank statements that establish the claimed financial status of the sponsor as indicated on the signed Form I-134, Affidavit of Support, indicating the sponsor's intention to provide financial support to the beneficiary and the ability to support the beneficiary while in the United States.

Conversely, if the presented evidence does not relate to an asserted material fact, that evidence may be irrelevant. Officers should not rely on speculative or irrelevant evidence in determining whether the applicant should be authorized parole, such as a character reference for the sponsor in the case. That would not help establish the fact that the sponsor has sufficient financial resources to support the beneficiary and thus, would generally be irrelevant.

Any decision that an officer makes should be based on material facts that are supported by the evidence in the record. All relevant evidence should be considered in the analysis.

## **2. Determining Credibility of Evidence**

Once an officer has determined that a piece of evidence is relevant, the officer should also determine whether the documentary evidence present in a case is credible (i.e., reliable or believable). In analyzing credibility, officers should consider whether the relevant evidence supports the parole request and whether there are any inconsistencies between the parole request and the evidence presented, whether the inconsistencies come from evidence presented by the petitioner, beneficiary, or sponsor, or were discovered through background and security vetting or through research the officer conducted.

Officers may issue a Request for Evidence (RFE), a Notice of Intent to deny (NOID), or a denial, depending on the circumstances, if they discover inconsistencies that lead them to question the credibility of the evidence. Material inconsistencies will generally warrant a RFE, NOID, or denial, whereas a minor inconsistency that would have little to no bearing on the decision-making should not warrant such a step.

## **L. Burden and Standard of Proof**

### **1. Burden of Proof**

Officers consider each request and the evidence provided on a case-by-case basis, taking into account all of the circumstances. See Section 212(d)(5) of the INA. The burden of proof is on the petitioner to establish that parole should be authorized. Parole will be authorized only if USCIS concludes, based on all the evidence submitted by the petitioner, and any other relevant evidence available to USCIS, that:



- There are urgent humanitarian or significant public benefit reasons for the beneficiary to be in the United States; and
- The beneficiary merits a favorable exercise of discretion.

The burden of proof encompasses two separate and distinct responsibilities:

- The burden of producing relevant evidence; and
- The burden of persuading the adjudicator with respect to the assertions made.

To determine if the petitioner has met his or her burden of proof (i.e., the burden of production and the burden of persuasion), the officer weighs the material evidence in the record. Although the petitioner has the burden of proof, it is up to the officer to determine whether it is appropriate to issue a RFE to obtain additional relevant evidence not submitted with the application.

## 2. Standard of Proof

Standard of proof refers to “the degree or level of proof demanded in a specific case.”<sup>10</sup> In immigration benefit adjudications before USCIS, applicants who shoulder the burden of proof must generally persuade the adjudicator of certain factual elements according to the “preponderance of the evidence” standard. A fact is established by a preponderance of the evidence if the adjudicator finds, upon consideration of all the evidence, that it is more likely than not that the fact is true. In other words, there is more than a 50% chance that the fact is true. It is a lower standard of proof than that used in criminal trials, which is “beyond a reasonable doubt.”<sup>11</sup> Determination of whether a fact has been established “by a preponderance of the evidence” should be based on both the quality and quantity of the evidence presented.

Once the petitioner has met his or her burden of proof (i.e., the burden of production and the burden of persuasion), the officer weighs the evidence in the record. It is up to the officer to determine whether to issue a RFE to obtain additional relevant evidence not submitted with the application. RFEs should only be issued if the additional evidence requested would affect the outcome of a decision.

## M. Requests for Evidence

Under 8 CFR § 103.2(b)(8), USCIS has the discretion to issue a RFE in appropriate circumstances when the facts and law warrant. At the same time, a RFE should not be issued when the evidence submitted already establishes eligibility for parole, nor should it be issued when the evidence submitted establishes ineligibility for parole, and there is no reasonable possibility that the petitioner can submit additional evidence that will overcome the ineligibility; in these instances an officer may issue a denial without first issuing a RFE or NOID.

Unnecessary RFEs can delay case completion and result in unnecessary costs to both USCIS and the petitioner. Officers should therefore try to include, in a single RFE if needed, all the

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<sup>10</sup> *Id.*

<sup>11</sup> See RAIO CT Module: *Evidence Assessment*

additional evidence they anticipate having to request. The officer's careful consideration of all the apparent gaps in the evidence will minimize the need for multiple RFEs. Officers should review the [Adjudicator's Field Manual, Chapter 10.5](#) for considerations prior to issuing RFEs. The RFE Guidance Document, [Request for Evidence: Guidance and Templates](#) with examples of relevant supporting evidence based on case type, is located on the ECN HAB site. This document should be consulted when preparing RFEs.

In urgent cases, it may be necessary to communicate by telephone, the HAB email box, or fax. Any email communications with a petitioner, beneficiary or their representative must be documented in CAMINO and printed for retention in the A-file. All telephone communications should be summarized in the remarks section of CAMINO. Officers may request to use the [HumanitarianParole@uscis.dhs.gov](mailto:HumanitarianParole@uscis.dhs.gov) email box to send scanned RFEs or NOIDs in urgent cases, if the RFE has been approved by a Supervisor, and is also issued in writing for mailing to the petitioner. Officers must be careful not to provide legal advice to representatives, petitioners, or beneficiaries at any time.

### **1. When to Issue a RFE**

If the officer determines that the evidence submitted does not meet the applicable standard of proof, but the officer determines that there is a reasonable possibility that additional evidence is available to the petitioner that will cure the deficiency, then the officer should issue a RFE. The burden of proof is on the petitioner to establish eligibility for parole. In addition, the petitioner must meet the "preponderance of the evidence" standard of proof in establishing that the facts upon which the parole request is based are true. In other words, it is more likely than not, or there is a more than 50% chance that the facts are true. If there is a reasonable possibility that the individual will be able to overcome the ground for a potential denial by submitting additional evidence or explanation, an RFE would generally be appropriate.

Generally, if any of the initial evidence listed in 4.3.6 in the [Parole Training Module](#) (Common Forms of Evidence) is missing, or if the initial evidence is present, but not sufficient to establish that parole should be granted, additional evidence should be requested in a RFE, if the officer determines that there is a reasonable possibility that the petitioner can provide additional evidence or an explanation that will overcome the deficiency and impact the decision the officer will make.

A RFE may be appropriate if it appears the petitioner has attempted to provide the initial evidence required in support of a parole request but additional information or details are needed to make a final decision.

Officers may also need to issue a RFE to verify the identity, as well as the immigration status (if unable to determine immigration status through CIS record checks or A-file review) of the parties to the parole request where relevant to the decision, since this information is not specified as being required in Form I-131 instructions.

In most cases, when a petitioner fails to properly complete the Form I-134 and provide supporting evidence of ability to support the beneficiary in the U.S., a RFE will be required if the



case would be approved, but for the lack of this evidence. This would include the situation where the sponsor failed to check Question 38 on the I-134 form to indicate intent to make specific contributions to the support of the beneficiary. However, there may be some situations where other evidence is available to establish this intent.<sup>12</sup> Officers should take into account all the evidence in the record before issuing an RFE.

## **2. When Not to Issue a RFE**

An officer must not request evidence that is outside the scope of the parole adjudication or evidence that is otherwise not material to the parole adjudication. Officers should not issue a RFE in the following situations:

- The officer intends to deny the case for a reason that additional evidence would not overcome (example: the fact that the beneficiary was convicted of a felony in the U.S. may be such a negative discretionary factor that outweighs any positive factor present in the case, and requesting additional evidence to further establish need for medical treatment would not be appropriate), or
- The officer does not believe there is a reasonable possibility that the petitioner can provide the additional evidence needed to adjudicate the parole request (example: the petitioner asserts that she is at risk of harm due to civil conflict in her home country and submits general media articles on the fighting and numerous casualties the fighting has caused. The officer does not need to issue a request for evidence, if he or she does not believe there is a reasonable possibility that the petitioner can provide independent corroborating evidence that the beneficiary specifically is in imminent risk of harm.)

## **3. What To Include**

The RFE must be in writing, using the RFE template in CAMINO. The officer should write the RFE in plain language, acknowledging any evidence received and specifying why the evidence submitted is not sufficient to meet the standard of proof required to establish parole eligibility. It is not enough simply to assert that the evidence already in the record fails to meet the burden of proof; rather, the officer should give specific reasons for this conclusion. The RFE must indicate when USCIS must receive the response: petitioners are given eighty four (84) days to respond to an RFE with an additional three (3) days allowed for mailing inside the U.S. and an additional fourteen (14) days allowed for mailing overseas.<sup>13</sup> Finally, the RFE must explain the consequences for failure to timely respond to the RFE.

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<sup>12</sup> For example, the beneficiary may be the petitioner's infant child with urgent need of care, and the petitioner, who is also the sponsor and has provided sufficient evidence in the record to show ability and intent to care of the child while in the U.S., though the petitioner failed to completely execute the I-134. The officer should clearly document in the decision the evidence relied on in lieu of the I-134.

<sup>13</sup> See [AFM Appendix 10-9](#)

#### **4. Documenting the RFE in CAMINO**

The officer must update the CAMINO remarks section indicating the date that the RFE was completed and forwarded to the supervisor for review including pertinent notes regarding the need for any special actions to be taken when the RFE response is received. The officer must complete the PAW in CAMINO representing the findings up to the issuance of the RFE.

#### **5. Administrative Processing for RFEs**

After the supervisor has reviewed and signed the RFE, the administrative staff mails the RFE, indicates this in CAMINO remarks, and updates the RFE module in CAMINO with the date HAB issued the RFE. Staff will update the DNA module if HAB issued the RFE based on a request for DNA evidence. The processing time clock in CAMINO will automatically stop on the date the RFE was issued and re-start as of the date entered into the RFE response received field, or the date the RFE is due, if the RFE received date remains blank.

When HAB receives a RFE response, the administrative staff will place a note in the case screen remarks to indicate the date that HAB received the response and the date it was given to the officer. They will also update the date HAB received the response in the RFE module and DNA module if necessary. The processing time clock will start as of the date entered into the RFE response received field.

#### **6. RFEs in Expedited Cases**

In urgent or time-sensitive cases, officers should contact the petitioner and representative (if any) to determine the quickest way to get the RFE to them for response. Officers must still submit all RFEs to a supervisor for review, but after the supervisor has approved the RFE, officers may request that administrative staff transmit the written RFE via fax or through the HumanitarianParole@uscis.dhs.gov email box (encrypted) to the petitioner and representative (if any). Officers should not relay a RFE only verbally by phone or in the text of an email. Any RFE that is sent by fax or email must also be sent by regular mail.

### **N. Additional RFE Considerations**

#### **1. Request for DNA Evidence**

Officers should only request DNA evidence if there is doubt about a claimed parent-child relationship upon which the parole request is based, such as if the evidence fails to establish a parental relationship necessary to the adjudication, and the evidence raises a fraud indicator, or the visa reciprocity tables indicate civil documents of relationships from the country are not reliable evidence. As with any RFE, petitioners have eighty-four (84) days, plus the aforementioned mailing times, to respond to a request for DNA. The request for DNA in the RFE will indicate where the petitioner should look on the internet in order to identify a U.S. government-sanctioned DNA laboratory where the testing may be conducted. The petitioner and/or beneficiary assume the cost of the DNA testing. The DNA laboratory will send the DNA test results directly to HAB. If the DNA has not been received within the RFE response time, HAB can administratively close the case, and notify the petitioner. HAB will reopen the case



when the DNA results are received and will proceed with adjudication. For additional information, see the [IO Field Guidance on International DNA Processing](#).

## **2. Multiple RFEs**

In some cases, particularly where the response to an RFE opens up new lines of inquiry, a follow-up RFE may be necessary. To the extent possible, however, officers should strive to avoid multiple RFEs to the same individual. Multiple RFEs delay final decisions and can prove costly to both the government and the petitioner.

## **3. Response Time Frame**

In many urgent or time-sensitive parole requests, petitioners respond quickly to RFEs so that the beneficiary is able to enter the U.S. in order to address the reason for the parole request. While the petitioner may not need the full length of time to comply with the request, officers should generally not set reduced RFE response times. Officers may only reduce the standard response time to a RFE on a case-by-case basis, in consultation with a supervisor, and where the evidence is easily obtainable and parole request involves very urgent or time sensitive circumstances that the petitioner must address immediately.

## **4. Processing the RFE Response**

Upon receipt of a RFE response, administrative staff will place a note in the CAMINO case screen remarks to indicate the date HAB received the RFE response and will update the RFE module with the response date which will restart the clock. Staff will then place the RFE in the officer's mailbox. The officer will retrieve the RFE and review the response to determine if they have received all the evidence requested and proceed in one of several ways, as noted below.

If a complete RFE response is received, the officer can continue the two-part analysis to reach a decision on the parole request. If only some of the requested evidence is submitted, the submission should be treated as a request for a decision on the record. 8 CFR 103.2(b)(13). Regulations require that the petitioner submit all of the requested materials at one time, along with the original RFE. However, due to the urgent and varied circumstances that generate parole requests, it is often helpful for the officer to get partial information to begin reviewing the evidence while additional evidence is obtained, and therefore may issue another RFE or Notice of Intent to Deny (NOID) to obtain the missing information, depending on the circumstances. The officer should consult with his or her supervisor.

If no response is received, the failure to respond may result in a denial based on abandonment, denial based on the record, or denial based on both reasons. 8 CFR 103.2(b)(12). The officer may deny a case based on a failure to respond to a RFE only if he or she previously issued a RFE to the petitioner in writing and the RFE indicated that the officer could deny the application for failure to respond. Then, if the allotted RFE response time has passed, and the officer has verified that the RFE was sent to the correct address(es), the officer may deny the case for failure to respond to the RFE.

## **O. Notice of Intent to Deny**

Like with RFEs above, USCIS has broad discretion under 8 CFR § 103.2(b)(8) in deciding whether to issue a Notice of Intent to Deny (NOID) in appropriate circumstances before denying a parole request. NOIDs are required in certain circumstances and are issued as a matter of discretion in others. Officers should not avoid using NOIDs, but should issue them when the facts and law warrant. At the same time, an officer should not issue a NOID when the evidence submitted establishes parole ineligibility and there is no reasonable possibility that the petitioner can submit additional evidence that will overcome the ineligibility. In such cases, an officer may issue a denial without first issuing a NOID. Unnecessary NOIDs can delay case completion and result in additional costs to both USCIS and the petitioner.

### **1. When to Issue a NOID**

If initial required evidence is missing, or the existing evidence is insufficient to meet the applicable standard of proof, and there is a reasonable possibility that additional evidence available to the petitioner will overcome a denial, the officer should issue a RFE. However, issuance of a NOID is appropriate in the following situations:

- A NOID may be issued to give the petitioner an opportunity to provide evidence requested in a prior RFE, if the officer believes there is a reasonable possibility that the additional evidence is available to the petitioner and will overcome the basis for denial, and the officer believes there may be good cause for the applicant's failure to provide the evidence in response to the RFE.
- A NOID must be issued when an officer is issuing a denial based on derogatory evidence in the record that the petitioner does not know. See 8 CFR 103.2(b)(16)(i). The officer will consider the following when deciding whether and how to inform the petitioner of the derogatory information that is the basis for the denial of the parole request:

The officer must consult with a supervisor regarding any denial based on classified derogatory evidence to determine what information may be included in the NOID. Where an application may be granted or denied in the exercise of discretion, such as a parole request, the decision may be based in whole or in part on classified information not contained in the record and not made available to the individual, provided the USCIS Director, or his or her designee, has determined that such information is relevant and is classified under Executive Order 12356 requiring protection from unauthorized disclosure in the interest of national security. See 8 CFR 103.2(b)(16)(iii).

### **2. When Not To Issue a NOID**

Officers should not issue a NOID in the following situations:



- If the evidence submitted in support of the request for parole combined with the evidence discovered by the officer through background and security vetting and research establish eligibility for parole; or
- If the evidence establishes parole ineligibility and there is no reasonable possibility that the petitioner will be able to overcome the ineligibility by submitting additional evidence or explanation, unless a NOID is required based on derogatory evidence in the record that the petitioner does not know, as noted in the section above.

### **3. What To Include**

The NOID must be in writing, using the NOID template in CAMINO. The officer should write the NOID in plain language, acknowledging any relevant evidence received, and must identify the reason the request will be denied if the petitioner does not respond. If the officer is issuing a NOID based on derogatory information, the officer must identify the derogatory information and how it relates to the determination that the applicant/beneficiary is not eligible for parole or does not merit a favorable exercise of discretion to approve parole. The officer should offer the petitioner an opportunity to rebut the information and present information on his or her own behalf before making a final decision on the parole request. See 8 CFR 103.2(b)(16)(i). The NOID must indicate the number of days allowed for the response. Petitioners are given thirty (30) days from the date of the NOID to respond; an additional three (3) days are allowed for mailing inside the U.S., and an additional fourteen (14) days are allowed for international mailing. Finally, the NOID must explain the consequences for failure to timely respond to the NOID.

### **4. Administrative Processing for NOIDs**

All NOIDs must be reviewed by a supervisor before being issued. After the supervisor has reviewed and signed the NOID, administrative staff update the NOID module in CAMINO with the date the NOID is mailed.

When HAB receives the NOID response, administrative staff will place an entry in the case screen "Remarks" noting the date the response was received at HAB and the date it was assigned to the officer. The administrative staff will update the NOID module in CAMINO with the date the NOID was received, and also update the DNA module if the NOID was issued based on a request for DNA evidence. The processing time clock will automatically start as of the date entered into the NOID response received field.

### **5. NOIDs in Expedite Cases**

In urgent or time-sensitive cases, the officer should contact the petitioner and representative (if any) to determine what the quickest way would be to get the NOID to them for response. After the supervisor has approved the NOID, the officer may transmit the written NOID via fax or by the HumanitarianParole@uscis.dhs.gov email box (encrypted and password protected) to the petitioner and representative (if any). The officer should not relay a NOID only verbally by

phone or in the text of an email. Any NOID that is sent by fax or email must also be sent using regular mail.

## **6. Processing the NOID Response**

Administrative staff will forward the response and/or A-file to the officer who issued the NOID, for review and a decision. The officer determines whether the response overcomes the reasons for the proposed denial set forth in the NOID. If the response overcomes the reason for the denial, and the individual merits a favorable exercise of discretion, the determination will be to approve parole. If it fails to overcome the reason for the denial, the determination will be to deny. If the petitioner fails to timely respond to the NOID, the application may be summarily denied as abandoned, denied based on the record, or denied for both reasons. 8 CFR 103.2(b)(12).

## **P. Derogatory Information and Fraud**

### **1. Derogatory Information**

Sometimes when conducting background and security vetting of parties to a parole request, the adjudicating officer may find information that reveals that a petitioner, beneficiary, or sponsor has a criminal record or is believed to be a national security threat in either the United States or another country. This type of derogatory information is typically considered a significant negative factor when considering the totality of the circumstances to exercise discretion. In determining the weight to give to that factor, the officer should consider the nature of the criminal activity (if any), the relationship between the case member with a criminal record and the other case members, and if the other case members are in any way tied to the criminal activity or national security issue. If it is the sponsor for example, the officer should consider whether the finances the sponsor will be providing for the beneficiary are in any way tied to the criminal activity or national security issue. Any case in which the officer makes a determination to exercise discretion in favor of granting parole, despite the evidence of criminal activity or national security concerns associated with the petitioner,

**Law Enforcement privilege**

## **Law Enforcement privilege**

### **2. Fraud**

Officers should examine all documentation presented in a parole request carefully and be mindful of the authenticity of documents. Petitioners do not need to submit original documentation with their parole requests; copies of documents are acceptable.

In assessing the validity of certain civil documents such as birth certificates, marriage certificates, divorce decrees, adoption decrees, death certificates, detention records, or military records, it may be helpful for officers to check the Department of State's webpage [Reciprocity and Civil Documents by Country](#), or to contact the Forensics Document Lab (FDL). The DOS website provides information on civil document issuance in a wide variety of countries, and officers may be able to verify if the appropriate government agency has properly issued the



document presented in support of a parole request, or whether such a document is even available in a particular country.

Occasionally, background and security checks reveal information that indicates some presence of fraud in another immigration context. In such situations, officers should determine the relevance, if any, to the parole request under consideration. When officers have identified a fraud indicator, they should consult with their supervisor in order to approach the FDNS unit and determine whether it is appropriate to submit a formal fraud referral to FDNS. More detailed information regarding derogatory information, fraud, and national security issues, is provided in Sections VII and VIII of this manual.

## **Q. Documenting the Decision**

Once an officer has reached a decision on the parole request, he or she must document the decision, updating the physical record (A-file or T-file) and enter the decision in CAMINO. The officer must:

- Document the decision and the analytic decision-making process on the Parole Adjudication Worksheet (PAW);
- Stamp the Form I-131, or the Parole Request Template, with the appropriate decision and sign;
- Annotate the Case File Coversheet with the officer's initials and the date the decision was completed; and
- Update CAMINO with the decision and update CAMINO remarks with any relevant case information and case status.

### ***Parole Adjudication Worksheet***

The officer must document his or her decision on a parole request on the Parole Adjudication Worksheet (PAW). Use of the PAW ensures that adjudicating officers clearly and consistently document the relevant facts of the case and their analysis in reaching a parole decision. The PAW template is accessible in CAMINO, and officers must complete a worksheet for each individual for whom a petitioner requests parole, even if they are on associated cases based on the same set of circumstances. Once the worksheet is completed, the officer places a copy on the non-record side (right side) of the file for supervisory review and concurrence.

The PAW is divided into three major sections: Parole Request, Analysis of Parole Reason, and Exercise of Discretion. These sections, and information on the two additional sections to document the officer's decision and supervisory review, are described in further detail below.

### **1. Section A: Parole Request**

Indicate by what means parole was requested: Form I-131 or U.S. Government Agency Parole Request template (non-DHS or DHS.)

- Indicate reason for parole request: medical, family based, adoption, protection, participation in legal proceedings, or other reason (describe).

- Provide a summary of all parties to the parole request (petitioner, beneficiary, and sponsor) and summarize the reason for parole. Indicate if beneficiary has a pending immigration petition and provide status of the petition.

## **2. Section B: Analysis of Parole Reason**

Provide detailed justification/analysis that a preponderance of the evidence does or does not establish urgent humanitarian reason(s) and/or a significant public benefit for the beneficiary to travel to the U.S.

## **3. Section C: Exercise of Discretion**

This section addresses the following discretionary factors:

- Does the evidence establish that sufficient non-public resources are available to support the beneficiary of the parole request?
- Does evidence establish that parole would be temporary in nature by accomplishing the purpose of parole during the parole authorization period, or that the beneficiary has a path to regularize immigration status if parole is approved?
- Does the evidence establish that, under the circumstances, a U.S. visa or other immigration process would enable the beneficiary to enter the U.S. in time to address the reason for parole?
- Is there evidence of the beneficiary's compliance or noncompliance with U.S. immigration laws in the past?
- Was there any derogatory information discovered during required security and background vetting?
- Are there additional positive or negative factors considered in the exercise of discretion not listed in the above sections?

Balancing these factors, the officer then provides a justification for a decision regarding why parole authority should or should not be exercised favorably, weighing the positive factors against the negative factors.

In Section C, Boxes 5 and 6 of the PAW, officers should include all inadmissibility grounds or derogatory information considered. If the case is approved, HAB will notify the Consular Post, in the Parole Authorization Memo, of inadmissibility grounds or other derogatory information considered in the parole adjudication.

## **4. Section D: Decision by Officer**

### **a. Approval**

The officer may issue a notice to approve if:

- All of the required documentation necessary to support the decision is in the file;



- The necessary security checks have been completed, and the results have cleared, and if derogatory results are produced, they have been de-conflicted and documented in the file;
- The petitioner has met his or her burden of proof to establish by a preponderance of the evidence that there are urgent humanitarian reasons or significant public benefit for the beneficiary to travel to the United States;
- After weighing all positive and negative factors present in the case, the officer has determined that the petitioner established by a preponderance of the evidence that the beneficiary merits a favorable exercise of discretion (this may include a determination of whether certain negative factors may be mitigated by placing conditions on the parole approval).

#### **b. Denial**

If the petitioner has not met his or her burden of proof to establish that the beneficiary is eligible for parole and merits a favorable exercise of discretion, the officer should issue a denial notice.

The officer should issue a denial notice if:

- The petitioner has not met the burden of proof establishing that the beneficiary should be paroled into the U.S. for an urgent humanitarian reason or for significant public benefit;
- The petitioner has demonstrated that there is an urgent humanitarian reason or significant public benefit for the parole request, but, that after weighing the positive and negative factors in the case, the negative factors outweigh the positive factors and the beneficiary does not merit a favorable exercise of discretion.
- The petitioner has failed to respond to a RFE within the allotted time, thereby abandoning the request for parole. Before issuing a denial, the officer should be certain that the RFE was sent to the correct mailing address of the petitioner and any attorney of record.

#### **c. Case Closure**

In certain circumstances the parole case may be closed, or administratively closed, with no decision entered in Action Block on the I-131.

The officer should close the case and issue a case closure notice in the following circumstances:

- The reason for the parole request no longer exists  
Examples:
  - The petitioner states that they wish to withdraw their request for parole, as the individual the beneficiary was seeking to visit in the U.S. is now deceased.
  - The beneficiary was able to travel to the U.S. through other means, such as obtaining a visitor visa.
- In certain specific circumstances, with supervisory approval, the case may be “administratively closed” when the petitioner is unable to provide required evidence by the RFE response due date. In these situations, the case would be administratively closed, and information would be provided to the petitioner in the case closure letter

regarding what evidence must be submitted in order to re-open the case. When the required evidence is submitted to HAB, the case may be re-opened and the adjudication completed.

Examples:

- The beneficiary followed procedural requirements to submit a timely DNA request, but DNA results are not expected prior to the RFE response due date.
- A minor beneficiary is requesting parole to remain with his parents, who intend to reside in the U.S., however the beneficiary's parents are scheduled for consular processing and have not yet obtained immigrant visas.

## **R. Conditions on Parole**

As noted above in Section VI, J, USCIS has regulatory authority to establish terms and conditions when parole is authorized. An example of a type of condition that may be imposed when authorizing parole is requiring the individual to provide "reasonable assurances" that he or she will "depart the United States when required to do so." See 8 CFR 212.5(d).

While HAB does not normally require or suggest conditions on parole approvals as a matter of practice, if the officer believes that parole should be granted only upon certain conditions being met, the officer should issue an approval specifying the conditions that must be agreed to in writing by the person impacted by the conditions, prior to finalizing and issuing the final approval notices. This condition should be determined in consultation with a supervisor and the HAB Chief, with appropriate coordination with other agencies, as necessary, and should be approved prior to issuing any final approval notices.

Situations in which conditions may be useful include cases in which the beneficiary has past immigration violations, such as being unlawfully present in the United States for many years, a long history of non-immigrant visa refusals, or a criminal record.

Examples of conditions include requiring the applicant to submit a monthly report of their location in the United States, requiring the applicant to submit proof that a return ticket to their home country was purchased, and to submit proof of their reentry to their home country following their parole.

HAB has the authority to terminate parole in the exercise of discretion. Officers must consult with the HAB Chief or supervisor in any case where the parolee has failed to comply with conditions or where additional adverse information arises following a grant of parole. In some cases, it may be appropriate to issue a Notice to Appear (NTA), initiating removal proceedings, in accordance with the current USCIS NTA policy.

## **S. Preparing the Decision and Updating CAMINO**

### **1. CAMINO Update**

The officer will update CAMINO to reflect the decision made, as well as the date of the decision, and will update the remarks section indicating that the case is complete and a decision has been



entered. The date of the decision entered in CAMINO should match the date stamped on the Form I-131 as well as the date of the officer's decision on the PAW.

## **2. Stamp the Form I-131 or Parole Request Template**

When a decision is entered in CAMINO, the officer should stamp with a grant or denial and sign the Action Block on page one of the I-131. If the parole request is a U.S. government agency parole request, stamp with a grant or denial and sign the Action Block on page one of the U.S. Government Agency Parole Request template in the file.

## **3. Case File Coversheet**

When the PAW is completed, the officer should annotate the case file coversheet with his or her initials indicating the date security checks were completed, and the date of the case decision, on the appropriate line, according to the decision rendered.

## **4. Petitioner/Representative Approval Notice**

For approvals, the officer will prepare a Parole Approval Notice (letter) from the CAMINO template that will be sent to notify the petitioner and representative (if any) of the approval. The officer will print out the Approval Notice for the Supervisor's review and signature. Note: Parole Approval Notices are not issued for government parole requests. Only Parole Authorization Memos are issued for these case approvals.

The Approval Notice provides the following information:

- The identity of the parole beneficiary;
- The length of time for which parole is approved;
- Notice that parole is temporary and that the applicant is expected to depart prior to the expiration of the parole authorization period, or obtain lawful status to be in the U.S., or request re-parole ninety (90) days prior to the expiration of the authorized parole period.
- If the approval is for initial parole
  - instructions that the boarding foil for the beneficiary will be issued by the U.S. Embassy/Consulate overseas; and
  - Instructions to complete the DS-160 on-line if a U.S. Embassy/Consulate will be issuing a boarding foil.

## **5. Parole Authorization Memorandum**

For approvals, the officer will prepare a Parole Authorization Memo from the CAMINO template that will be sent via encrypted email to the U.S. Embassy/Consulate abroad so that they can issue a Boarding Foil. For re-parole cases, the Parole Authorization Memo is sent to the domestic USCIS Field Office with jurisdiction over the parolee's location for issuance of an I-94 card to the beneficiary.

The Parole Authorization Memo will contain the following:



- The identify information of the beneficiary;
- The purpose of the parole request;
- Inadmissibilities or derogatory information considered in the parole adjudication;
- The length of time for which parole is approved;
- Contact information for the beneficiary overseas including address and a local telephone number and email address if available;
- Contact information for the petitioner and representative (if any) located in the U.S.;
- For initial parole:
  - Notice that the beneficiary has been provided instructions to complete Form DS-160;
  - Request that the U.S. Embassy/Consulate issue the Boarding Foil as soon as possible within 30 days of the Parole Authorization Memo; and
  - If applicable, notification to the U.S. Embassy/Consulate that the beneficiary is unable to obtain a passport in time to travel to the U.S. in order to address the urgent situation for which parole was approved.

The U.S. Consulate abroad has thirty (30) days from the date of the Parole Authorization Memo to contact the beneficiary and issue the beneficiary a Boarding Foil to allow him or her to travel to the U.S.

## **6. Re-Parole Approval Notice**

For re-parole cases that are approved, the officer will prepare a Re-Parole Approval Notice (letter) from the CAMINO template that will be sent to notify the petitioner and representative (if any) of the approval of the re-parole request. The officer will print out the Re-Parole Approval Notice for the Supervisor's review and signature.

The Re-Parole Approval Notice provides the following information:

- The identity of the parole beneficiary;
- The length of time for which parole is approved specifying the specific dates of validity;
- Instructions to the effect that an I-94 will be issued by a USCIS Domestic Field Office;
- The address of the local Field Office responsible for updating the I-94 record.

## **7. Re-Parole Authorization Memorandum**

For re-parole approvals, the officer will prepare a Re-Parole Authorization Memo from the CAMINO template that will be sent via encrypted email to the domestic USCIS Field Office with jurisdiction over the parolee's location for issuance of an I-94 card to the beneficiary.

The Re-Parole Authorization Memo will contain the following:

- The identity of the parole beneficiary;
- the exact dates of the parole authorization period, so that the USCIS Field Office will know what validity period to place on the I-94 issued;

- Contact information for the beneficiary in the U.S. including a local telephone number and email address if available, as well as contact information for the Representative of Record, if any; and
- Instructions to issue the necessary documents (form I-94, Arrival/Departure Record) for the beneficiary's re-parole.

## **8. Parole Authorization Period**

Parole is authorized for a temporary period of time that will enable the beneficiary to address the reason that parole was requested. The length of time for which parole is approved may vary from one week, up to two years, but may not exceed two years per parole request without approval of the HAB Chief. The [Parole Training Module](#) gives further instruction on determining the length of parole. Note that although rarely exercised, CBP retains the authority at the Port of Entry to deny parole or to modify the length of parole authorized by USCIS.

In very limited circumstances, an officer may determine that a beneficiary should be paroled into the United States even though the beneficiary likely will need to seek re-parole beyond the initial two year authorization period to achieve the purpose of the parole. Examples of circumstances that may warrant parole in such circumstances include cases where the beneficiary needs long-term medical treatment, cases where the individual has a particular vulnerability and a demonstrated lack of caretaking or treatment in their home country, and has an approved immigrant petition for which the priority date is still several years away.

## **T. Supervisory Review**

All decisions, RFEs and NOIDs issued by an officer are subject to 100% supervisory review. Like officers, supervisors should prioritize the review of decisions, RFEs, and NOIDs for expedited and other urgent cases before the review of standard priority cases.

If the supervisor or an officer becomes aware during his or her review of a case that the parole request appears to be particularly sensitive or high profile, or likely to be publicized, the case should immediately be brought to the attention of the HAB Chief.

### **1. Supervisor Case Review Standards.**

The Supervisor should:

- Review all evidence submitted by the petitioner and all evidence gathered by the officer through background and security vetting and research; and
- Ensure that the officer's decision is legally sufficient, consistent with agency policy and guidance, and is based on evidence in the record.

Supervisory review is not intended to be a re-adjudication of the officer's decision. If the decision is documented on the PAW in accordance with this Procedures Manual and the [Parole Training Module](#), and the decision is an appropriate exercise of the officer's discretion in considering all relevant factors, the supervisor will not substitute his or her judgment for the



officer. Rather, the supervisor should generally defer to the officer's decision, unless it is contrary to guidance or law, or is inconsistent with USCIS policy.

Parole requests often involve difficult issues and decisions are not always easily reached; therefore, supervisors should be available to officers for consultation during the adjudication process. Supervisors should encourage officers to reach decisions using the guidance provided in the [Parole Training Module](#) and in this Procedures Manual, and consider all evidence thoroughly, before consultation with their supervisors.

## **2. Returning a Decision**

During supervisory review, a supervisor may need to return a case for several reasons. Some of these scenarios are described below:

### **a. Security Checks Required**

If a supervisor determines that not all required security checks were completed (for example, certain aliases are not in CAMINO), the supervisor will discuss the security check information and document in CAMINO the return of the case to the officer, and provide guidance on what additional security checks to complete.

### **b. Legally Insufficient or Inconsistent**

If the supervisor determines that the officer's decision is legally insufficient or is inconsistent with agency policy or guidance, the supervisor will discuss the case with the officer and document the return of the case to the officer on the Parole Adjudication Worksheet and in the CAMINO remarks.

### **c. Legally Sufficient with Policy Consideration**

If the supervisor determines the officer's decision is legally sufficient, but the supervisor determines the case should be decided differently due to policy considerations, consistency with other decisions, or for other reasons, the Supervisor may discuss the case with the officer and, where there is disagreement, is encouraged to discuss it with his or her branch chief. Supervisors should also be familiar with and follow the USCIS [Policy Memorandum on Directed Decisions](#).

## **U. Documenting Supervisory Review**

Once the supervisor has concurred with the officer's decision, the supervisor dates and signs the Parole Adjudication Worksheet, signs the decision notices, initials and dates the Case File Coversheet, and updates CAMINO with the date of his or her concurrence with the officer's decision in the Supervisor Review Complete field. The supervisor will enter a note indicating concurrence with the decision in the remarks field. After completing these steps, the supervisor will forward the file to designated administrative staff for post-adjudication processing. These steps are discussed in detail in Section IX.



## V. High Profile, Sensitive or Likely to be Publicized Parole Requests

HAB supervisors may be aware that a particular case is high profile, sensitive, or likely to be publicized. When assigning such a case to an officer for adjudication, the supervisor should notify the officer that the officer may be required to draft summary briefing materials, but should also inform the officer in a way that makes clear that the fact that a case is high profile or likely to be publicized should not impact the decision-making, and the officer should apply the same analytic framework as in any other case, consistent with the parole training materials.

If an officer or supervisor becomes aware during his or her review of a case that the parole request appears to be particularly sensitive, high profile, or likely to be publicized, he or she should immediately bring it to the attention of the HAB Chief or a supervisor. The HAB Chief or supervisor can then raise the case to RAIO or USCIS management, the Office of Communications (OCOMM), or the Office of Legislative Affairs (OLA), so they can be prepared to answer any questions, as appropriate. Supervisors may need to work with officers in drafting a summary of case facts for briefing leadership – summaries should be concise, contain any derogatory information considered, and exclude PII unless absolutely necessary.

When officers handling urgent, high profile, sensitive, or likely to be publicized parole requests are out of the office, they must inform their supervisor of the status of the case and the A-file location, so that the supervisor can respond to inquiries timely and advance the case as needed during their absence.

The HAB Chief or supervisor will consult with RAIO or USCIS management on any case involving novel or particularly sensitive issues, prior to issuance of a decision.

## VI. RE-PAROLE DENIAL AND NTA ISSUANCE

### A. Legal Authority

USCIS has been delegated the authority by the Secretary of the U.S. Department of Homeland Security (DHS) to issue [Form I-862, Notice to Appear](#) in order to initiate removal proceedings. See [INA 103\(a\)](#); [INA 239](#); [8 CFR 2.1](#); and [8 CFR 239.1\(a\)](#). For further background and information on legal authorities, see [CHAP, Chapter 1, Part G, Volume 1, General Policies and Procedures](#).

On January 25, 2017, the President issued Executive Order (EO) 13768 [Enhancing Public Safety in the Interior of the United States](#). EO 13768 sets forth the President's immigration policies for enhancing public safety and articulates the priorities for removal of aliens from the United States. Additionally, EO 13768 instructs that the government will no longer exempt classes or categories of removable aliens from potential enforcement.

On June 28, 2018, the USCIS Director issued [PM-602-0050.1, Updated Guidance for the Referral of Cases and Issuance of Notices to Appear \(NTAs\) in Cases Involving Inadmissible and Deportable Aliens](#). The PM provides updates to USCIS guidelines for referring cases to ICE and



issuing NTAs. This PM supersedes the November 7, 2011, PM-602-0050, *Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens*.

USCIS began implementation of [PM-602-0050.1](#) on October 1, 2018, in a phased approach. The Humanitarian Affairs Branch was included in the initial guidance requiring issuance of NTAs on denied status-impacting applications where the person is inadmissible or deportable. An application or petition is status impacting if it grants status, impacts an individual's period of authorized stay, or provides access to ancillary benefits (e.g. employment authorization). Status impacting is broader than applications or petitions that grant a non-immigrant or immigrant status in the United States. Thus **Form I-131, Application for Travel Document--Re-Parole**, is included in this category of cases for which NTAs would be issued in certain circumstances. Component specific guidance regarding additional phases of implementation is found in [Chapters 2](#) and [3](#) of the CHAP. USCIS will also issue NTAs on denied applications, petitions, and benefit requests involving VAWA, SIJ, T, and U nonimmigrant status, and denied I-730 petitions where the beneficiary is present in the United States.

## **B. Issuance of Denial Notice**

If an officer determines that the re-parole applicant has not met his or her burden of proof to establish that the beneficiary is eligible for parole and merits a favorable exercise of discretion, the officer will issue a denial notice which includes the following language:

*We carefully reviewed your application in accordance with the law, regulation, and USCIS policy and determined that parole is not warranted.*

The denial notice further states that if the petitioner believes the case was incorrectly decided, they may file a motion requesting a reconsideration of the decision on form I-290B within 33 days of the mailing of the case decision, or alternatively, may file a new Form I-131.

*If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision, reopen the proceeding, or both. In contrast, you may not file an administrative "appeal." The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Form I-290B, Notice of Appeal or Motion, within 33 days of the date of this decision with the proper fee amount or a request for a fee waiver. This time-period includes three days added for service by mail. The Form I-290B website ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. Alternatively, you may file a new Form I-131, Application for Travel Document, with supporting evidence including any significant new facts that are relevant to the application for parole.*

The denial notice must also include the appropriate approved NTA denial language for both individuals whose period of authorized stay has expired and those whose period of authorized stay has not yet expired.

### **a. Beneficiary whose authorized period of parole has expired at time of denial issuance:**



*USCIS records indicate that when you filed your application, the beneficiary was lawfully present in the United States. The beneficiary's period of authorized stay has expired. The beneficiary is not authorized to remain in the United States and should make arrangements to depart as soon as possible or apply for an immigration status for which he or she is otherwise eligible. If the beneficiary does not depart the United States within 33 days of the date of this letter, USCIS may issue a Notice to Appear and commence removal proceedings against the beneficiary with the immigration court. This may result in the beneficiary being removed from the United States and being found ineligible for a future visa or other U.S. immigration benefits. See sections 237(a) and 212(a)(9)(B) of the INA.*

**b. Beneficiary in valid parole status at the time of denial issuance:**

*USCIS records indicate that when you filed your application, the beneficiary was lawfully present in the United States. This period of authorized stay has not yet expired. The beneficiary is authorized to remain in the United States until the expiration of the approved period of parole. Upon the expiration of parole, the beneficiary is not authorized to remain in the United States unless the beneficiary has applied for or acquired an immigration status for which he is otherwise eligible. If the beneficiary does not depart the United States on or before the date on which the beneficiary's parole expires, or apply for an immigration status for which he or she is otherwise eligible, USCIS may issue a Notice to Appear and commence removal proceedings against the beneficiary with the immigration court. This may result in the beneficiary being removed from the United States and being found ineligible for a future visa or other U.S. immigration benefits. See sections 237(a) and 212(a)(9)(B) of the INA.*

**C. Preparing to Issue an NTA**

In all denied re-parole cases in which it has been determined that an NTA is appropriate, the case will be placed on a hold shelf, while awaiting any motions, with a call up date of 45 days after issuance of the denial letter, if the beneficiary's authorized parole period is expired at the time of the denial issuance. If the beneficiary was still in a period of authorized parole at the time of the denial issuance, the call up date will be 45 days after the beneficiary's parole period expires. Cover sheets will be placed on these cases, to alert staff of the conclusion of the 45 day period for each of these types of cases. At the conclusion of 45 days, the case file will be returned to the adjudicating officer, and systems checks must be conducted to determine if the beneficiary departed the United States, filed an application or petition that could grant status or a period of authorized stay, or filed a motion to reopen or reconsider. If the systems checks reveal that the alien did not depart the United States, did not file a new status-impacting application or petition, or did not file the respective motion, the case will be processed for NTA issuance.

If, after 45 days, an I-290B motion, or new status-impacting application or petition is filed, and the NTA has not already been issued, the motion or new status-impacting application or petition will be processed per the form specific operational guidance, and unless there are extenuating circumstances for expediting issuance of an NTA, the officer should not issue an NTA until the



motion or new status-impacting application or petition is adjudicated. If the denial is upheld and the alien continues to be removable and is physically present in the United States, the case officer proceed with NTA issuance.

**Before determining if an NTA will be issued, certain systems checks must be conducted by the adjudicating officer including the following:**

- **PCQS**

The officer should first start with a check of PCQS (Person Centric Query System) checking the box that indicates “Select All.” This will present a comprehensive view for a particular individual of all of the systems checked in PCQS. Run this check utilizing both the alien’s A-number as well as their name and various aliases.

- **ADIS**

--To verify the beneficiary’s possible departure from the U.S. prior to NTA issuance.

ADIS (Arrival and Departure Information System) serves as a repository for storing, reconciling, and reporting of non-U.S. citizen air and sea traveler information. Further, ADIS collects adjustment of status information from CLAIMS3 (Computer-Linked Application information Management System) and SEVIS (Student and Exchange Visitor Information System), and data elements and transactions associated with IDENT and other related immigration systems in order to maintain consistent alien travel histories. ADIS matches departure records with arrivals to determine alien overstay, creates and stores arrival and departure records, and provides a wide range of ad hoc queries and reporting capabilities on these data.

- **ATS-P/UPAX**

--To verify the alien’s possible departure from the U.S. prior to NTA issuance.

ATS-P (Automated Targeting System-Passenger) and UPAX (Unified Passenger)

CBP is in the process of decommissioning ATS-P and migrating the data into the UPAX. ATS-P is used to collect and analyze information on applicants who wish to travel to the United States (legally or illegally) on any type of conveyance including airline, truck, passenger vehicles, sea going vessels, rail, etc. UPAX will integrate these currently separate applications into a single unified system by streamlining the user interface between ATS-P and UPAX.

**Note:** while there is an overlap of data in ADIS and ATS-P/UPAX, ATS-P/UPAX may contain data separate and distinct from the departure data found in ADIS, thus checks must be conducted in both systems;

- **CLAIMS 3 and 4 and ELIS 1 and 2 in PCQS**

--To determine if any new motion, appeal, or status impacting application or petition has been filed

Computer-Linked Application information Management System (CLAIMS) 3 and 4 and Electronic Immigration System (ELIS).

CLAIMS tracks the processing of numerous form types and petitions. This include I-765 (Employment Authorization Documents), I-129F (Petition for Alien Fiancé), I-130s (Petition for Alien Relative), I-730 (Refugee/Asylee Relative Petition), I-129 (Petition for Non-Immigrant Worker), I-129 (Petition for Non-Immigrant Worker), I-485 (Adjustment of Status), N-400 (Application for Naturalization) and other benefit applications that are submitted to USCIS.

A check of ELIS, will allow adjudicators to determine case status for case and form types adjudicated in ELIS. ELIS also allows applicants, their attorneys, and accredited representatives, to create an online account and submit and track immigration benefit requests 24 hours a day. While a check of ELIS in PCQS will confirm and provide some information on the status of a petition, for more detailed information on a particular petition, the officer should directly check ELIS.

Forms currently adjudicated through ELIS:

- N-400: Application for Naturalization
- N-336: Appeal after denial of an N-400
- I-821: Application for TPS
- I-539: Application to Extend/Change Non-Immigrant Status
- I-821D: Application for DACA
- I-765: Employment Authorization
- I-90: Replacement LPR card

- **GLOBAL**

--To determine if an asylum application is pending and the status of that application.

Global is the case management system for affirmative asylum. It replaced RAPS in 2018 with data from legacy RAPS incorporated into Global. It may be accessed through PCQS.

Run an A-number and name/DOB check, including aliases and alternate DOBs.

- **EOIR and ENFORCE**

--To determine if there are previous enforcement actions taken against the beneficiary, and determine if the individual is subject to reinstatement, or if removal proceedings should be reopened.



- **CIS2**

--To ensure the alien does not have multiple A-numbers

CIS (Central Index System)

CIS is a USCIS database that contains information about existing records, file location, and data on whether certain immigration benefits have been granted to an alien (naturalization, LPR, and EAD issuance data). In the context of HAB adjudications, CIS is used primarily to determine whether a beneficiary has previously been assigned an A-number, and to obtain information on aliases and other immigration data.

The 9106 command is used by administrative staff upon initial case entry to conduct a search with a three year date range before and after the stated date of birth to determine whether there is an existing record for the individual. The 9106 result screen, PF8 – History screen, and PF9 – EAD screen, should be printed and included with security checks completed for the beneficiary.

The officer must review CIS documents in the file to be certain all name/DOB variations have been checked, as additional aliases might have been found in the adjudication process. If additional aliases/DOBs are located, officers should run a check of these names in CIS.

- **AR-11**

--To determine if there is a more current address for the case beneficiary.

The INA requires non-US citizens living in the U.S. to notify USCIS of an address change within 10 days of the change or face fines, detention or possible deportation. AR-11 tracks and records these address changes of non-U.S. citizens who are currently in the U.S. who have submitted an AR-11 address update to USCIS electronically, through the paper Form AR-11, or via a phone request to a customer service representative.

Run a check of AR-11 through PCQS to determine if the applicant has submitted a change of address.

- **RAILS**

--To ensure that all A-files and T-files are present.

RAILS is an automated file system that tracks internal immigrant files and receipt files, and allows USCIS users to request immigration files. RAILS enables USCIS to electronically maintain an accurate file inventory, track the location of paper and



electronic immigration files via a web-based system and/or mobile application, and allow users to order, transfer, and receive official paper and electronic immigration records related to the A-number.

The officer should check RAILS for additional A-files or T-files, some of which may have been digitized.

If the systems checks reveal that the beneficiary did not depart the United States, did not file a status granting application, petition, or request, and did not file an I-290B motion, the officer will process the case for NTA issuance.

**a. Prior to issuing the NTA, locate, obtain, and review all other associated A-files, Temporary files (T-files), Work files (W-files), and/or all other related pending applications/petitions.**

If the A-file is at another location, using appropriate systems, request the A-file. Follow the steps below if the FCO has not sent the file or it is digitized:

<b>Obtain all Associated Case Files</b>	
<b>IF the A-file is</b>	<b>THEN</b>
<b>Received</b>	<ul style="list-style-type: none"> <li>Review A-file to determine if there any pending applications or petitions, or if there are any previous enforcement actions taken against the individual.</li> <li>Consult with supervisor to determine appropriate course of action in accordance with procedures outlined in the CHAP.</li> </ul>
<b>Not received but a response is received</b>	<ul style="list-style-type: none"> <li>If the Field Control Office (FCO) responds to the request for the file but does not send it, make arrangements to obtain the file or documents from the file that are needed for NTA issuance. Follow the agreed upon action between the requesting USCIS office and the office where the A-file is located.</li> </ul>
<b>Not received and a response is not received</b>	<ul style="list-style-type: none"> <li>If the FCO does not respond to the request for the file, contact the FCO directly to make arrangements for the receipt of the file or to obtain any documentation needed from the file.</li> <li>Review all available information to determine if there are any pending applications or petitions, or if there are any previous enforcement actions taken against the individual.</li> </ul>
<b>Digitized</b>	<ul style="list-style-type: none"> <li>Review all available information to determine if there are any pending applications or petitions, or if there are any previous enforcement actions taken against the individual.</li> </ul>

	<ul style="list-style-type: none"> <li>• If the information available contains a record of previous enforcement action, determine if the person is subject to reinstatement or if removal proceedings should be reopened.</li> </ul> <p><b>NOTE:</b> An NTA can be issued from the T-file. Refer to Associate Director for National Security and Records Verification memorandum dated April 10, 2008, “<a href="#">Adjudication and/or Processing of Cases When the File Control Office (FCO) Indicates ‘DIG’ or ‘RDF’</a>” and the <a href="#">Digitization Customer Guide</a>.</p>
<b>Lost</b>	<ul style="list-style-type: none"> <li>• Review all available information and databases to determine if there are any pending applications or petitions, or if there are any previous enforcement actions taken against the individual.</li> <li>• If the information available contains a record of previous enforcement action, determine if the person is subject to reinstatement or if removal proceedings should be reopened.</li> </ul> <p><b>NOTE:</b> The NTA can be issued from the T-file. Refer to USCIS Domestic Operations PM, <a href="#">Temporary A-File Adjudication</a> dated November 9, 2005, <a href="#">RPM Part II-22: Lost A-Files</a> and <a href="#">RPM Part II-4: Temporary A-Files (T-Files)</a>.</p>
<b>An ELIS case with no physical A file</b>	<ul style="list-style-type: none"> <li>• Review all available information to determine if there are any pending applications or petitions, or if there are any previous enforcement actions taken against the individual.</li> <li>• If the information available contains a record of previous enforcement action, determine if the person is subject to reinstatement or if removal proceedings should be reopened.</li> <li>• If an NTA is issued on an ELIS case, the officer will select the “Put Case on Hold” option, and then select the “NTA Hold” button in ELIS to show an NTA has been issued. The properly served, signed, and dated NTA must be scanned into ELIS and uploaded when placing the case on hold or can be uploaded under the Evidence and RFE section using the “Hold Request” option.</li> <li>• The officer will request the original A-file (if not already present) to interfile the paper NTA.</li> </ul> <p><b>NOTE:</b> If the A-file is not available, the officer must coordinate with HAB administrative staff to create a T-file.</p>



**b. Review the alien's immigration records, search appropriate electronic systems for other grounds of inadmissibility, and determine if there are other factors that preclude the issuance of an NTA.**

Review the alien's immigration record, including but not limited to: an A-file, Receipt File, Temporary File, Digitized File, or ELIS, for the following:

- Maintenance of Status;
- Pending applications or petitions;
- Whether the alien has applied for Deferred Action for Childhood Arrivals (DACA) or Temporary Protected Status;
- Current or Former Member of the U.S. Military. See June 21, 2004 ICE PM, [Issuance of Notices to Appear, Administrative Orders of Removal, or Reinstatement of a Final Removal Order on Aliens with United States Military Service](#); or
- Other relevant factors.

**D. Requirements for NTA Issuance and NTA Charges**

The officer will determine with review and concurrence of the supervisor and the HAB Chief that a particular case meets the requirements of NTA issuance.

Any request by the adjudicating officer, with the HAB Chief's concurrence, to exercise discretion and not issue a NTA to an individual who otherwise falls within the NTA guidance, must be subject to a USCIS Prosecutorial Review Panel for a case specific review. Prosecutorial discretion not to issue a NTA may be exercised on a case-by-case basis with concurrence from the Chief or Deputy Chief of International Operations. For further guidance on prosecutorial discretion see [CHAP, Vol. 1, Part G, Notice to Appear, Chapter 1, Section E: Exercising Prosecutorial Discretion](#).

Individuals who fail to depart the U.S. after denial of request for re-parole will be charged as an arriving alien under 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act.

NTA wording for a Re-Parole Overstay:

**You are an alien paroled into the United States, but are removable for the following reasons:**

**The Service alleges that:**

**Allegations:**



1. **You are not a citizen or national of the United States:**
2. **You are a native of \_\_\_\_\_ and a citizen of \_\_\_\_\_;**
3. **You were paroled into the United States on \_[DATE]\_ at \_[POE]\_ as a parolee for a temporary period not to exceed \_[DATE]\_.**
4. **You remained in the United States without authorization from the U.S. Department of Homeland Security beyond [DATE]\_.**

**On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision of law:**

**212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.**

Once the NTA is created, it must be reviewed and approved by a supervisor and by the HAB chief.

Complex NTAs, including NTAs that lodge criminal, fraud, and security related grounds of inadmissibility or removability must always be reviewed by USCIS OCC counsel prior to being signed by the issuing officer. All cases of individuals who fall within mandatory detention grounds will be sent to ICE through a RTI (Return to ICE). USCIS OCC council will review all NTAs for the first 6 months of NTA issuance. Following this period, less complex NTAs for immigration violations, such as a parole overstay, do not have to be reviewed by USCIS OCC counsel. However, USCIS OCC counsel should be consulted if questions arise.

Cases for OCC review include the following:

- Cases that involve aliens who appear to be an egregious public safety (EPS) threat based on available evidence;
- Cases that involve aliens who appear to be non-egregious public safety (Non-EPS) threats based on available evidence;
- Cases where there is articulable evidence of fraud or misrepresentation.

National Security Cases:

NTA procedures do not affect the way cases with identified national security concerns are handled. The guidance from FDNS defines national security concerns and establishes procedures for resolution of national security concerns. If the immigration record involves a matter of national security, it will be processed in accordance with the Controlled Application Review and Resolution Program (CARRP). See CARRP Policy and Operational Guidance and [CHAP Volume 13, Part E, National Security Concerns](#).

TRIG Cases:

These procedures do not affect the way cases with identified terrorism-related inadmissibility grounds (TRIG) are handled. Officers must closely coordinate with local management and local USCIS OCC counsel when denying a case on TRIG grounds and when determining if an NTA should be issued. See [CHAP, Volume 8, Part E, Terrorism](#).

If a case involves TPS, DACA, or VAWA, T, U, and Other Protected Cases Under 8 U.S.C. 1367, officers should review and follow CHAP guidance specific to these cases in [Chapter 1, Part G, Volume 1, General Policies and Procedures](#).

**E. Security Check Requirements Prior to Issuing NTA**

A Memorandum issued by the USCIS Director on December 26, 2018, [Updated Guidance for Security Check Requirements Preceding Notice to Appear \(NTA\) Issuance](#), outlines security check requirement that must be conducted by USCIS officers prior to issuing an NTA.

NaBISCOP has been updated to reflect this new guidance. See [Section XII, Security Checks Required for Issuance of Form I-862 - Notice to Appear and Form I-863 - Notice of Referral to an Immigration Judge](#).

USCIS officers must either initiate or complete, as described below, and subject to the current minimum age restrictions, the following security checks immediately prior to issuing an NTA:

**Law Enforcement privilege**

**Law Enforcement privilege**

c. FBI Name Check

**Law Enforcement privilege**



# Law Enforcement privilege

## **F. Prepare the I-213 and NTA**

Officers will complete the NTA and the I-213, Record of Deportable Alien in ECHO.

In completing the I-213, Record of Deportable/Inadmissible Alien, officers will only provide a written narrative in cases involving unique or procedurally complex inadmissibility provisions. The I-213, an internal DHS document that is not served on the individual issued an NTA, will be placed in the A-file.

## **G. Schedule Case with EOIR**

After supervisory review and approval, the adjudications officer will provide the NTAs to the designated administrative staff member (ISA) to schedule a date and time of an initial hearing through EOIR's DHS Portal Case Scheduling System. If the Beneficiary has an attorney, four NTAs are prepared.

- If the Beneficiary does not have an attorney, three NTAs are prepared.

**NOTE:** There must be an original signature by the issuing officer, signed in blue ink, on the 3 or 4 original NTAs. An original NTA is placed in the A-file, in the event that the original signed NTA is lost.

The EOIR generated date and time must be entered on all copies of the NTA. The ISA will then serve the NTA by mail following guidance below.

Obtaining a date and time of an initial hearing through DHS Portal does not constitute proper service of the NTA on EOIR. USCIS is still required to properly file the NTA with EOIR no later than 30 days prior to the scheduled master calendar hearing. Failure to properly file the paper NTA with EOIR in a timely matter may result in the NTA being *nolle prossed*<sup>14</sup>.

## H. Serve the NTA on the Beneficiary

Mail the following documents to the alien/respondent:

- Copy of the NTA;
- List of [EOIR pro bono legal service providers](#), which is published by [EOIR](#). The list sent with the NTA must be the list for the state where the individual is living as noted in the application or petition;
- [Form EOIR-33](#), Alien's Change of Address Form/Immigration Court; and
- A copy of the denial letter previously sent to the petitioner.

HAB administrative staff should issue the NTA via regular mail in accordance with [8 CFR 1003.13](#), unless otherwise instructed by a supervisor. Administrative staff must ensure that the NTA and Certificate of Service are properly signed and dated. The administrative staff member must complete the Certificate of Service block and check the proper box indicating how the NTA was served. The administrative staff member must ensure that their first initial, last name, and title, along with their signature, is provided on the appropriate line. The certificate of service should not list another individual unless that individual actually effectuated service of the NTA on the alien.

**NOTE:** Regulations require USCIS to serve any mail, including the NTA, to the address last provided by the alien. As such, routine service of an NTA to an address obtained from a third party service, such as Accurint or CLEAR, will not suffice for proper service. If HAB must serve an NTA using an address obtained from a third party source, it must be served via *certified mail* with returned receipt to prove proper service.

If Form G-28, Notice of Entry of Appearance as Attorney or Representative, is on file, a copy of the denial letter, and the signed and dated NTA, must be mailed to the attorney/representative of record.

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<sup>14</sup> Not prosecuted and dismissed.



## I. Serving NTA in Special Circumstances

Officers must follow all operational guidance and instructions on the handling of cases for which [8 U.S.C. 1367](#) protections exist. Form types protected under 8 U.S.C. 1367 permit the applicant or petitioner to designate a safe mailing address, other than his or her physical address or regular mailing address, to protect against disclosure of information to abusers or unauthorized third parties. Officers should follow the steps outlined in 8 U.S.C. 1367 in [CHAP, Volume I, General Policies and Procedures, Part G -Notice to Appear, Chapter 1, Introduction, Section H, VAWA, T, U, and Other Protected Cases Under 8 U.S.C. 1367](#) when serving an NTA on an individual covered by these protections to ensure that information is sent to the correct location and prevent a potential violation of 1367 confidentiality.

When there are obvious indicators of an alien/respondent's mental incompetency, the NTA should still be issued in the alien's name, but serve the NTA on three individuals:

- A person with whom the respondent resides—a responsible person in the household;
- Whenever applicable or possible, a relative, guardian, or person similarly close to the respondent; and
- In most cases the respondent.

See *Matter of E-S-I*, 26 I&N Dec. 136 (BIA 2013) and *Matter of M-A-M*, 25 I&N Dec 474 (BIA 2011). Consult with Local USCIS OCC counsel as needed.

## J. Filing the NTA with EOIR

When mailing the NTA to EOIR, offices should use a mail tracking system to ensure that EOIR received the NTA.

Offices will mail the original NTA along with a copy marked "Duplicate Original" and the CASE ISS DHS Worksheet to the appropriate Immigration Court. EOIR will affix a received/date stamp to each copy of the NTA, keep the original NTA, and will return the copy marked "Duplicate Original" to USCIS via mail.

**NOTE:** In the NTA mailing to EOIR, the ISA must include self-addressed (HAB address), pre-stamped envelope for EOIR's return of the date-stamped NTA to HAB.

Once the NTA is mailed to EOIR, HAB should generally maintain possession of the A-file until confirmation that EOIR has accepted the NTA. The administrative staff member should return the A-file to the adjudicating officer to track the return of the NTA from the court. Once HAB receives the stamped "duplicate original" NTA, this duplicate copy must be interfiled into the A-file.

**NOTE:** Due to possible delays with mail service, if HAB has not received the duplicate copy of the NTA within 3 weeks of service, the adjudicating officer should contact the appropriate EOIR court to ensure the NTA was received and accepted.



## K. Update CAMINO Notes and NTA Module in CAMINO

Enter a CAMINO note to indicate that the NTA was served on the alien and filed with the court.

The following data must be updated in the NTA module in CAMINO:

- Date NTA mailed to applicant
- Date NTA mailed to EOIR
- Initial hearing date
- Initial hearing time
- Initial hearing location
- NTA charge(s)

## L. Creating TECS record of NTA Issuance

Use the following language:

“NTA has been served on alien on <INSERT DATE>. Form(s) <SPECIFY FORM(S)> denied for (if applicable) <STATE REASON(S)>.”

Follow the instructions found in [USCIS TECS Record Creation SOP](#) and the [Modernized TECS ECN site](#). Create a TECS lookout record for any cases referred to ICE, including EPS, Non-EPS, and cases returned to ICE for NTA issuance (RTIs). If ICE declines the case, it is incumbent upon the owner of the record to update or delete the lookout record, as appropriate.

**NOTE:** Insert appropriate section of INA 212 charges on the second screen.

## M. Transfer File to ICE OPLA

Once the NTA is received from EOIR, the adjudicating officer will return the A-file to the administrative support staff member to transfer the A-file. USCIS offices must **not** forward the physical A-file to EOIR. Unless local agreements establish otherwise, HAB must route the A-file to the ICE Office of Principal Legal Advisor (OPLA) office having jurisdiction over the immigration court upon which the NTA was served. A Transmittal Memorandum must be securely placed on top of the file.

USCIS must interfile the following records into the A-file prior to forwarding the A-file to ICE OPLA:

- Duplicate original (stamped “Duplicate Original”) NTA;
- Photocopy of the NTA;
- I-213;
- All relevant documents to support the factual allegations and ground(s) of removal; and
- CASE ISS DHS Worksheet.

## N. Undeliverable Mail

If documents are returned as undeliverable, verify that the applicant's most recently known address was used for NTA issuance. If the address is correct according to USCIS records, forward the entire returned package to the A-file. If the address was not the current address of record at the time the NTA was issued, update the appropriate system, and issue the new NTA as indicated in the steps above and forward the returned package to the A-file. If USCIS attempts to serve the NTA at a different address, such as one from a commercial database, the NTA should be mailed with "Return Receipt Requested" to prove service in case the alien fails to appear for the scheduled hearing. If an alien fails to appear for a scheduled hearing, an immigration judge may order removal in absentia.

## O. Record of Proceedings for NTA Issuance

The documents listed in Table 1 when placed in the A-file in the order described constitute the official NTA Issuance Record of Proceeding. Files do not need to contain all listed documents.

Record of Proceeding for NTA Issuance	
Record (Top/Bottom)	Non-Record (Top/Bottom)
<ul style="list-style-type: none"> <li>▪ Photocopy of original NTA</li> <li>▪ Duplicate original NTA</li> <li>▪ Decision letter</li> <li>▪ G-28</li> <li>▪ Response to Request for Evidence (RFE/Notice of Intent to Deny (NOID))</li> <li>▪ Request for Evidence (RFE/Notice of Intent to Deny (NOID))</li> <li>▪ I-131, Parole Application</li> <li>▪ Supporting Documentation</li> <li>▪ Return address portion of original envelope</li> </ul>	<ul style="list-style-type: none"> <li>▪ NTA Transmittal Memo</li> <li>▪ Form I-213 (if applicable)</li> <li>▪ Charging Documents</li> <li>▪ NTA Processing Worksheet</li> <li>▪ Unacceptable G-28</li> <li>▪ Parole Adjudication Worksheet</li> <li>▪ Case communications/emails</li> <li>▪ Officer Case Evidence</li> <li>▪ Case Security Checks</li> </ul>

## VII. BACKGROUND AND SECURITY CHECKS

**LEP**

**LEP**

**A. Who and What to Query**

**LEP**

**B. Who and What Not to Query**

**LEP**



**LEP**

**C. Required Background and Security Checks**

**LEP**

**LEP**

# LEP

**2. Consular Consolidated Database (CCD).** CCD is a U.S. State Department electronic database that documents nonimmigrant and immigrant visa petitions filed with various consular offices overseas. Officers are able to verify in CCD whether an individual has attempted to obtain a visa to enter the U.S. before requesting parole. This check is mandatory for the petitioner, sponsor, and beneficiary for any case that the officers believes is approvable and should be checked prior to issuing an RFE or NOID, as sometimes derogatory information is found. This check is not required for any case an officer intends to deny, although the information in CCD may inform the officer's decision to deny or approve. Searches are not required for native-born United States citizens, as they are not listed in CCD. For purposes of Form I-131 adjudications, checks are valid for 180 days.

**3. Central Index System (CIS).** CIS contains information about any existing record, file location, duplicate filings, and whether a particular benefit has been granted to an alien. In the context of parole adjudications, CIS is used primarily to determine whether a beneficiary has previously been assigned an A-number. CIS is checked by HAB administrative staff before the case is assigned to an officer or transferred to IASB for adjudication; officers should confirm, through print-outs in the file, that CIS checks, along with any other checks conducted by HAB administrative staff, are complete as part of their adjudication of a case. This check is mandatory in all cases for all beneficiaries, petitioners, and sponsors who are not native-born citizens. For purposes of Form I-131 adjudications, checks are valid for 180 days.

If the officer discovers biographic information associated with a party that is not in CAMINO (e.g., an alias or different date of birth), the officer should update CAMINO with the new information and run a CIS check on the new information.

**4. Computer Linked Application Information Management System (CLAIMS).** CLAIMS tracks the processing of applications for employment authorization documents (EADs) and many fee-based benefit applications that are submitted to USCIS. A CLAIMS check should be completed for each petitioner, beneficiary, and sponsor (who is not a U.S. citizen) for any case



that the officer believes is approvable, or prior to issuing a RFE or NOID. While running a CLAIMS check in PCQS, also check the boxes for ELIS and ELIS2, as certain form types are now being adjudicated through ELIS including N-400 (Application for Naturalization), I-821 (Application for TPS), I-765 (Employment Authorization), I-90 (Replacement LPR card), and I-821D (Application for DACA). This check is not required for any case an officer intends to deny, although the information in CLAIMS and ELIS may inform the decision to deny or approve; for example, by establishing that a family-based or other petition has been filed or approved on a beneficiary's behalf. Any benefits applied for that are material to the case adjudication should be highlighted on the PCQS CLAIMS or ELIS petitions summary printout, including print-outs of adjudication details of any material petitions. These would be weighed in the exercise of discretion by the adjudicating officer. For purposes of Form I-131 adjudications, checks are valid for 180 days.

**5. ENFORCE Alien Removal Module (EARM).** ENFORCE/EARM is a database maintained by Immigration and Customs Enforcement (ICE), which tracks information about foreign nationals in detention and through the removal process. This check is conducted for all petitioners, beneficiaries and sponsors who have been assigned an alien number. EARM checks will indicate if the individual was previously removed from the United States and provide the reasons for the removal and the history of the removal proceedings. Searches are not required for native born United States citizens as they are not tracked in EARM

EARM results are also used to identify cases that are not in HAB's jurisdiction, specifically, for beneficiaries who either are or have been in removal proceedings, or who have a final order of deportation or removal; these cases are in the jurisdiction of ICE. While jurisdiction is typically confirmed during the triage process, officers may discover information in EARM during the course of their adjudication that indicates a case is not in HAB's jurisdiction. Such cases should be brought to a supervisor for review. For purposes of Form I-131 adjudications, checks are valid for 180 days.

## Law Enforcement privilege

# Law Enforcement privilege

**Requests for Re-Parole:** TECS check must be run for all petitioners, beneficiaries and sponsors within 15 days of receipt of a request for re-parole for any beneficiary already in the United States.

**7. Automated Targeting System (ATS).** ATS is an intranet-based enforcement and decision support tool that compares traveler, cargo, and conveyance information against intelligence and other enforcement data from a number of databases. It provides important travel and border crossing data useful for HAB adjudications. This check should be completed for the petitioner, beneficiary and sponsor(s) in any case that the officer believes is approvable, or prior to issuing a RFE or NOID. This check is not required for any case an officer intends to deny. ATS results are recorded in CAMINO. Do not print out records from ATS, ATS check results expire after 180 days.

**8. Biometrics.** Because the beneficiary generally is outside the United States, IO does not run fingerprint checks prior to approving the request for parole. However, State Department consular staff run both fingerprint checks and conduct facial recognition checks before issuance of a boarding foil that would allow travel to the U.S. for an individual whose request for advance authorization for parole was approved. If consular staff discover derogatory information, they alert HAB so that the parole authorization can be reconsidered in light of the new information. See section C below for the process to follow if it is determined that, in light of the derogatory information, parole should not be approved.

If the request is for re-parole of a beneficiary in the U.S., the officer must check IDENT to determine whether the beneficiary has had any law enforcement encounters since paroled into the United States. Further guidance will be forthcoming on scheduling beneficiaries for biometric collection at ASCs.

Any case in which there is a fingerprint record for a beneficiary in CAMINO, such as through the refugee processing program, and the record reflects a hit or expired fingerprint results, the officer should bring the case to the attention of a supervisor. For hits, the officer should review



the reason for the hit in CPMS and evaluate whether it impacts the case decision. If non-hit results have expired, the supervisor may extend the fingerprint validity period in CAMINO to the shortest date necessary to complete the adjudication or delete the fingerprint record and update the remarks section in CAMINO to reflect that action.<sup>15</sup>

**9. Person Centric Query System (PCQS).** Although a check of the PCQS database is currently not a required check, it is a tool that can enable officers to access some of the systems above and also can provide useful information when an officer needs to do additional research on a claim. PCQS is a system that allows submission of a single query for all transactions involving an immigrant across a number of USCIS and State Department Systems. It provides a view of an immigrant's past interactions with the government as he or she passed through the U.S. Immigration System and Consular Processing. Searches can be run by Name/DOB, A-number, social security number, SEVIS ID number, I-94 number, visa foil number, FBI number, Enforce ID number, TECS record ID, etc. The system gathers data from and is utilized by: visa benefit adjudicators (consular officers, visa fraud officers), and staff of immigration offices and asylum offices.

## **D. Documenting Completed Checks**

The officer must record individually all background identity and security checks conducted by the officer in both CAMINO and in the A-file or T-file of the individuals checked and all cross referenced files.

### **1. CAMINO Updates.**

Officers are responsible for updating background identity and security checks in the "Background Checks" module of the corresponding CAMINO person record. This record includes the date the security check was conducted and the date the result was returned. If an officer identifies a system that needs to be checked and is not listed in CAMINO, the officer should raise the issue with a supervisor to determine whether a request should be made to add that system to the list in CAMINO or the officer should simply note in the "Remarks" field the check that was conducted, the date, and the result.

See the [CAMINO User Guide for Parole Cases](#) on the HAB ECN site for step by step guidance on updating security checks in CAMINO.

### **2. File Updates and Security Check File Order**

All print-outs of security check results (including Hit Resolution Memos) are placed on the right side of the file, and should be organized in the order of the security checks listed in the CAMINO person profile as described below. They should be sorted according to the individual case member they are associated with: Beneficiary, Petitioner, and Sponsor, from top to bottom in that order. If there are multiple sponsors, the officer should order those checks by each sponsor. Each set of results should start with the printed person record screen from CAMINO, so

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<sup>15</sup> HAB is working on a change to CAMINO that will address this issue without having to change the expiration date.



as to identify the party to whom the checks relate. Tab each person record screen at the bottom of the page, indicating Beneficiary, Petitioner, or Sponsor, so each set of checks can be easily located in the file.

Checks should be organized in the following order, by individual:

- CAMINO Person Profile record including current NCTC check result
- CCD
- CIS
- CLAIMS
- EARM
- TECS: ROIT followed by a TECS Hit Resolution Memo, if a hit is found, and TECS print-outs.)

Note: Printouts for NCTC and ATS are not placed in the A-file.

## **E. Derogatory Information**

The Fraud Detection and National Security Unit (FDNS) should be contacted for assistance when an officer needs to follow up with record holding agencies regarding derogatory information identified during background and security vetting.

When a record holding agency is contacted for more information related to the derogatory information, FDNS staff will also determine whether there are any objections to parole being granted for the reasons requested.

If derogatory information is discovered, officers should carefully weigh the positive factors present in the case against the negative derogatory information to determine whether parole should still be approved as a matter of discretion, or should be denied based on the derogatory information. See section VI regarding the exercise of discretion.

## **VIII. ADJUDICATION RELATED TOPICS**

This section of the procedures manual provides detailed guidance regarding additional topics that may be involved in adjudicating parole applications and the in decision-making process that could occur in different parts of the workflow described in Section VI.

### **A. Fraud and National Security**

#### **1. Fraud**

The USCIS Fraud Detection and National Security Directorate (FDNS) administratively investigates allegations of immigration benefit fraud and produces a Statement of Findings (SOF) that can be used by adjudicators to make decisions on applications and petitions. Most FDNS investigations are conducted under the authority of Section 212(a)(6)(C)(i) of the INA,

which states that “any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the U.S. or other benefit provided under the INA is inadmissible.” A charge of inadmissibility under Section 212 (a)(6)(C)(i) must be supported by the following elements:

- The applicant/beneficiary must have misrepresented or concealed some fact;
- The misrepresentation or concealment must have been willful; and
- The fact must have been material.<sup>16</sup>

Establishing the elements of the above inadmissibility charge is at the core of the work performed during an FDNS fraud investigation. There may be instances in which sufficient evidence is not present to establish that the applicant/beneficiary is inadmissible under section 212(a)(6)(C)(i), but the administrative investigation does determine that there is enough evidence to support a denial of the application/petition. In those instances, a Statement of Findings (SOF) will document the eligibility issues in order for the case adjudicator to make a sound adjudication of the application/petition.

Immigration fraud schemes may include actions undertaken by an individual who devises and executes his or her own plan to circumvent immigration laws or large scale conspiracies formed for the purpose of defrauding USCIS and other U.S. government agencies or departments. FDNS assists ICE and other government agencies in determining how to apply the INA and other immigration-related statutes and regulations to specific immigration benefit fraud and Public Safety cases.

## 2. Addressing Suspected Fraud

**LEP**

<sup>16</sup> See *Kungys v. U.S.*, 485 U.S. 759 (1988), which indicates that a fact is considered material if it had a tendency to influence the decision for the application or petition or shut off a relevant line of inquiry.

<sup>17</sup> The Fraud Referral Sheet is located at:

<https://ecn.uscis.dhs.gov/team/scops/tsc/BPT/Fraud%20and%20Security/Forms/AllItems.aspx>



# LEP

### 3. Egregious Public Safety

An Egregious Public Safety (EPS) case is defined as any case where information indicates the alien is under investigation for, has been arrested for (without disposition), or has been convicted of any of the following:

- Murder, rape, or sexual abuse of a minor as defined in 101(a)(43)(A) INA;
- Illicit trafficking in firearms or destructive devices as defined in 101(a)(43)(C) INA;
- Offenses relating to explosive materials or firearms as defined in 101(a)(43)(E) INA;
- Crimes of violence for which the term of imprisonment imposed or where the penalty for a pending case is at least one year as defined in 101(a)(43)(F) INA;
- An offense relating to the demand for or receipt of ransom as defined in 101(a)(43)(H) INA;
- An offense relating to child pornography as defined in 101(a)(43)(I) INA;
- An offense relating to peonage, slavery, involuntary servitude, or trafficking in persons as defined in 101(a)(43)(K)(iii) INA;
- An offense relating to alien smuggling as described in 101(a)(43)(N) INA;
- Human Rights Violators, known or suspected street gang members, or Interpol hits;
- Re-entry after an order of exclusion, deportation, or removal subsequent to a conviction for a felony where a Form I-212, Application for Permission to Reapply for Admission into the U.S. after Deportation or Removal, has not been approved. Note: HP applications of individuals who have final orders of removal would fall under ICE jurisdiction; or
- Arrests without Disposition for the above offenses.

The MOA between USCIS and ICE indicates that, even without a conviction, an alien may be an EPS case if there has been an arrest “without disposition.” This applies specifically to an arrest where charges are still pending. If the alien was arrested, but the charges were dropped, or the alien was acquitted, the case will not be referred under this provision of the MOA. Also, if an arrest was for an offense described above, but the conviction was ultimately for an offense not defined as an EPS case, the case will not be referred under this provision of the MOA.

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<sup>18</sup> Fraud Detection Standard Operating Procedures, Available at <https://ecn.uscis.dhs.gov/team/fdns/FDNSDocuments/Fraud-Detection-Standard-Operating-Procedure.pdf>



If the officer finds through routine background checks, that one of the individuals associated with a parole case meets the criteria outlined in this section, then the parole case becomes an EPS case and must be referred to FDNS. FDNS will submit a Referral to ICE (RTI), where appropriate. Action to be taken will depend on the status of the party and whether the individual is in the United States

#### **4. National Security Concerns**

**LEP**

### **B. Other Determinations**

#### **1. Withdrawal**

If a petitioner requests to withdraw his or her parole application before a decision has been reached, the officer will prepare a Withdrawal Notice from the template in CAMINO for petitioner and representative (if any). Only the person who submitted the Form I-131 may request to withdraw it. USCIS will not refund the petitioner's filing fee if he or she requests that his or her parole application be withdrawn.

#### **2. Case Closure**

In some circumstances when the petitioner may not be able to fulfill timely a RFE due to circumstances beyond his or her control, but the officer anticipates that the evidence will be forthcoming, the officer may, with supervisory concurrence, issue a notice that the case will be closed and may be re-opened within a year if the petitioner is later able to provide evidence requested to adjudicate the parole request. This may occur in cases for example where a minor child for whom parole is requested is not prepared to travel until the accompanying parent, a following-to-join refugee or asylee, receives approval to travel. Or, it may be appropriate to administratively close a parole request for an adopted child if there are processes that will take a lengthy period of time for the petitioner to accomplish in order that the parole request may be adjudicated.

It may also be appropriate to close a case instead of denying it when the need for parole no longer exists, such as when a petitioner or beneficiary has passed away during the pending parole

adjudication. The Case Closure Template available in CAMINO includes language to address this circumstance and express condolences.

### **3. Request to Re-Issue Parole Authorization Memo**

If the U.S. Embassy or Consulate abroad or the beneficiary contacts HAB requesting that the Parole Authorization Memo be reissued, the officer will consider the circumstance surrounding the request, whether the reason that parole was requested still exists, and whether security check results are still valid. If the officer determines that the reason for the parole request still exists, the delay in departure was reasonable on the part of the beneficiary, or that the beneficiary's inability to depart was a result of failure by the U.S. Embassy or Consulate to issue the travel document timely, then the officer will reissue the Parole Authorization Memo, and the Approval Notice if necessary. The officer must first verify that all security check results are still current, or re-run them if expired, prior to reissuing the Parole Authorization Memo/Approval Notice.

### **4. Termination**

Parole may be terminated if the beneficiary is no longer fulfilling the purpose of the parole request, if the beneficiary has not complied with conditions placed on parole, or if derogatory information regarding the beneficiary comes to light. Parole is automatically terminated when the parole authorization period has expired.

If a determination is made to terminate parole, the adjudicator will prepare a notice to the petitioner and beneficiary notifying the decision to terminate and providing the reasons. Depending on the reasons for termination, a Notice to Appear (NTA) placing the beneficiary in removal proceedings may be issued.

### **5. Motion to Reopen or Reconsider Proceedings Following a Parole Denial**

Following a denial of a parole request, the petitioner may file a motion to request that HAB reconsider its decision, reopen the proceedings, or both. The petitioner must file form I-290B, Notice of Appeal or Motion, within 33 days of the date of the case decision with the proper fee amount or a request for a fee waiver. The time-period includes three days added for service by mail.

Title 8, Code of Federal Regulation, Section 103.5(a) states in pertinent part:

- ***Requirements for a Motion to Reopen.*** A motion to reopen must state new facts and must be supported by documentary evidence demonstrating eligibility for the required immigration benefit at the time the petitioner filed the application or petition.
- ***Requirements for a Motion to Reconsider.*** A motion to reconsider must state the reason for reconsideration and must be supported by citations to appropriate statutes, regulations, precedent decisions, or statements of USCIS policy to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.



The motion will be assigned for a de novo review by an officer other than the officer who initially adjudicated the case. The Officer will complete Form I-290B Service Motion to Reopen/Reconsider Worksheet, updating security checks that may have expired, running additional checks as needed, articulating any inadmissibility grounds or derogatory information, and providing an analysis and determination if a reversal of the case decision is warranted and whether discretion should be exercised in the applicant's favor.

If upon review, it is found that the evidence provided with the Form I-290B is sufficient to approve the Motion, the petitioner will be notified of the Motion approval through an I-290B Notice of Appeal or Motion Approval Notice. A Parole Approval Notice or Re-Parole Approval Notice will also be mailed to the petitioner.

If the case decision is not reversed and the denial stands, the petitioner will be issued a I-290B, Notice of Appeal or Motion Denial. This letter informs the petitioner, that upon review, the office found that the evidence submitted with the Form I-290B was not sufficient to approve the Motion to Reconsider such that the Service would act favorably on the initial petition. It states that the prior petition is not overturned and the case is denied.

## **C. Special Considerations**

### **1. Assisted Reproductive Technology (ART), Surrogacy and Adoption-related cases**

If a parole request is identified at case triage for an ART/Surrogacy issue, an adopted child, or a potential adopted child, HAB will refer the case to the RAIO Children's Affairs and Adoption Program expert for a parole recommendation prior to officer assignment. If officers identify a case that appears to be for an adopted child or a potential adopted child, or involves a child conceived through the use of ART or surrogacy, the officer should notify their supervisor to discuss the need for a referral to an adoptions expert. The adoption expert reviews the evidence in the case to ensure that the adoption or ART/surrogacy process is valid and to determine whether the child would have a path to regularize his or her immigration status if paroled into the United States. The adoption expert writes a recommendation to be included in the A-file or T-file for consideration by the adjudicating officer. As part of the recommendation in ART or Surrogacy cases, the adoption expert will initiate a FDNS investigation and require fingerprints of the petitioning parents.<sup>19</sup> The adoption expert seeks OCC input as appropriate and then returns the case to the HAB supervisor for assignment to an officer, or to the HAB officer who was previously assigned the case, to complete the adjudication. The adoption expert maintains a spreadsheet of all pending parole adoption cases and their recommendations.

The parole recommendation will provide guidance to the officer about whether additional evidence should be requested from the petitioner and what specific evidence is needed in order to adjudicate the parole request. The recommendation should be followed when issuing a RFE in an adoption case. If an officer believes that urgent humanitarian reasons or significant public benefit or discretion warrant a decision contrary to the recommendation, the officer should

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<sup>19</sup> Depending on the individual circumstances, the adoptions expert may be able to refresh biometrics already on file for the parents, or may include in their recommendation that HAB RFE for biometrics from the parents in ART/Surrogacy cases before adjudicating the case.



consult with the HAB Chief, who will then consult with the adoption expert and appropriate RAIO manager.

## **2. Parole Requests for Children**

Depending on the circumstances, when parole is requested for a minor child (a child under the age of 18), we require proof of parentage, and, in the interest of protecting the child, may also require the type of evidence noted below. See [Requests for Evidence: Guidance and Templates](#) document on the HAB ECN. In cases involving a minor child beneficiary, the officer must review the file for the information noted below, as applicable. If the evidence is not present and the parole request otherwise appears approvable, the officer must issue a Request for Evidence for the missing information or consult with a supervisor if the officer believes there are reasons parole should be approved absent that information.

**a.** When the minor beneficiary is traveling with one parent and the other parent will remain outside the United States:

- Permission from the non-traveling parent for the child to accompany the traveling parent including the duration of authorized travel.
- A clear and legible copy of an official government-issued photo identification document that shows name and date of birth of the parent granting travel permission.
- If the parents of the child are divorced or separated, proof showing that the traveling parent has been awarded legal custody of the minor or if the non-traveling parent has joint custody, that the non-traveling parent has granted permission for the child to travel.

**b.** Where neither parent is traveling:

- Written authorization from both parents for the child to leave the country with an appointed guardian, to include: the duration of travel and proof of legal guardianship or temporary guardianship issued by a government authority.

**c.** Where the parents' consent cannot be obtained:

- Written explanation from the petitioner explaining efforts to locate the parent; or
- The circumstances surrounding the unavailability; and
- Evidence of guardianship or temporary guardianship for the person who is accompanying the child on travel or receiving the child once he or she arrives.

## **3. Privacy**

USCIS personnel who adjudicate and process parole requests must follow all applicable laws and policy, such as the Privacy Act of 1974, which establishes safeguards for the protection of records that the federal government collects and maintains on U.S. citizens and LPRs. (See [Adjudicator's Field Manual](#) Chapter 10.12).

The Privacy Act applies to any item, collection or grouping of information concerning such individuals that can be retrieved by using an individual's name, social security number (SSN), A-number or other personal identifying information (PII). The Privacy Act applies to personal information stored in computers as well as that maintained in paper files, such as the alien file (A-file).

Privacy rules and policies apply to all immigration applications, including records related to requests for parole.

Information contained in a parole application is often sensitive in nature relating to personal and medical emergencies and must not be released by USCIS to third parties, without the petitioner or beneficiary's written consent. HAB staff must follow Agency policy in releasing any information to a third party and consult with their supervisor. Information related to a request, such as a request for a status update should not be disclosed to anyone not listed on Form I-131 or on the G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, or a Form G-28I, Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the U.S. Non- I-131, or G-28 or G-28I designated individuals, such as other employees of the sponsoring firm or organization, or sponsors who filed Forms I-134, Affidavit of Support, are restricted from receiving application information.

Requests for information and all other notices in the case should be directed to the petitioner or beneficiary, with a copy to the attorney or accredited representative who has filed a Form G-28. HAB staff may not contact a sponsor for additional information, unless it relates to the Form I-134 or supporting documentation required.

#### **4. Protection of Confidential Asylum, Refugee, and other Sensitive Information**

Federal regulations at 8 CFR 208.6 generally prohibit the disclosure to third parties of information contained in or pertaining to asylum applications, credible fear determinations, and reasonable fear determinations—including related information contained in RAPS, APSS and CAMINO—except under limited circumstances. This regulation safeguards information that, if disclosed publicly, such as through litigation, FOIA, or other means, could subject the individual to retaliatory measures by government authorities or non-state actors in the event that the asylee, refugee, or asylum or refugee applicant is repatriated, or endanger the security of the claimant's family members who may still be residing in the country of origin. Public disclosure might also in rare circumstances give rise to a plausible protection claim where one would not otherwise exist by bringing an otherwise ineligible claimant to the attention of the government authority or a non-state actor against which the claimant has made allegations of mistreatment.

Information contained in or pertaining to any asylum application, credible fear determination, or reasonable fear determination, cannot be disclosed without the written consent of the applicant, except as specifically outlined under Section 208.6, *Disclosure to Third Parties* of Title 8 of the CFR, or at the discretion of the Secretary of DHS. For further information review: [Fact Sheet: Federal Regulation Protecting the Confidentiality of Asylum Applicants](#).



For humanitarian parole adjudications, in order to comply with 8CFR, 208.6, an individual's asylum or refugee petition or claim must not be referenced in the case of another family member or other case member, unless the individual has self-disclosed this information by including information concerning the asylum or refugee claim in the parole submission. If such information has not been self-disclosed, and is considered as part of the case adjudication, it would be acceptable, in some circumstances, to make a broad, non-disclosing statement, for example, "the beneficiary's father obtained a benefit that would allow him to remain in the U.S. and possibly apply for a benefit on behalf of the beneficiary." Similarly, it is not acceptable to place security check print-outs, or information regarding criminal history of an individual in another individual's case file, unless the individual to whom the information pertains is the case petitioner, beneficiary, or sponsor. If absolutely necessary for consideration in the case adjudication, in consultation with the supervisor, this information may in rare circumstances be discussed in a "Memo to the File" placed on the non-record side of the file.

## **5. Protecting Personally Identifiable Information (PII)**

Communications should avoid Personally Identifiable Information (PII) whenever possible. If PII must be included in a communication, the following shall apply:

- All internal USCIS communications that include PII should be sent using PKI encryption according to USCIS policy.
- External communications with Department of State or petitioners and representatives should not include PII except when necessary (such as transmittal of an approval notice or authorization memo). When staff must communicate PII to an external party, the information must be encrypted using Adobe PDF password protect, or WinZip if available.

## **6. Office of Legislative Affairs Inquiries**

The USCIS Office of Legislative and Intergovernmental Affairs (OLIA) often reaches out to HAB for information on parole requests in order to respond to inquiries from members of Congress on behalf of constituents. When responding to OLIA, staff should:

- Verify that OLIA will not provide the information to a member of Congress or staffer without first obtaining the needed written consent from the petitioner or beneficiary, and retain a copy of that written consent in the A-file, or that OLA otherwise has authority to release the information. See [OLA Congressional Inquiries SOP](#) for further details.
- If any HAB staff receive an inquiry directly from a member of Congress or a Congressional staff member, they should refer the individual to OLIA for assistance in obtaining a response to the inquiry.

## **7. Medical Cases**

If a petitioner requests parole on behalf of him or herself for urgent medical reasons, the officer may not contact a medical professional to ask about the petitioner's situation without the written consent from the petitioner/patient. In cases where parole is requested to provide support to an



individual receiving medical treatment in the U.S., the officer may not reach out to medical providers or third parties to obtain medical information about the patient without his or her written consent.

In cases where it may be necessary to contact a medical provider, an officer may ask for the petitioner's or beneficiary's consent in a Request for Evidence by including the following OCC cleared language: 'We have received [described by officer] documents from your physician indicating you have a medical condition. Please provide written consent for USCIS to contact your doctor directly regarding the medical documentation provided to USCIS. The consent must evidence that it complies with your doctor's requirements for authorizing disclosure.'

## **IX. POST ADJUDICATION**

Following supervisory review, the decision should be recorded in the A-file or T-file as follows:

- The decision should be stamped and signed by the officer on top page of Form I-131 or the government agency request form in the appropriate decision box;
- The Case File Coversheet stapled to the front of the A-file or T-file should be annotated with the date the decision was recommended and officer's initials. Officers should also annotate the appropriate sections to indicate that all required security checks were completed;
- The Parole Adjudication Worksheet that documents the Supervisor's concurrence should be placed on the non-record side (right side) of the A-file or T-file;
- Copies of the Parole Authorization Letter and the Parole Authorization Memo should be left loose in the file for mailing, and
- Any necessary CAMINO updates and remarks should be entered by the officer and supervisor.

After the parole decision has been made, there are series of steps that must be taken by administrative staff to complete the processing of a case as outlined below.

### **A. Notifying the Petitioner**

After the supervisor has signed the decision, approvals and denials are submitted to administrative staff in order to mail out notifications of the decision and to complete post-adjudication processing. Decisions are mailed to the petitioner and representative (if any) in all cases. For particularly urgent cases, a copy of the Parole Approval Letter may also be sent by encrypted or password protected email to the case petitioner or attorney of record in addition to the mailed approval letter.

### **B. Validity Period of Parole Authorization**

For initial parole authorizations, the U.S. Embassy/Consulate abroad has thirty (30) days from the date of the Parole Authorization Memo to contact the beneficiary and issue the beneficiary a Boarding Foil to allow him or her to travel to the U.S. Once the travel document is issued by the

U.S. Embassy or Consulate, the beneficiary must travel to the U.S. within 30 days of the issuance date of the travel document.

If the applicant does not have a passport and is unable to obtain a passport, Department of State may use alternative documentation.

If the parole beneficiary is unable to travel to a U.S. Embassy/Consulate to obtain a boarding foil, and this information is made known to HAB staff, they should contact the supervisor for the case, so they may consider alternative options that may be available in rare circumstances for extremely urgent cases, such as traveling with a travel letter issued by DOS, or coordinating with CBP.

### **C. Communicating with the Department of State or USCIS Field Office**

Approvals are sent by encrypted and password protected email to the appropriate U.S. Consulate, or domestic USCIS Field Office (for re-parole), using the HAB Inquiries mailbox (or IASB email, where appropriate). Communications must be encrypted and password protected.

### **D. Recording the Decision and Mailing**

The designated administrative staff updates CAMINO with the date the petitioner was notified of the decision. For approvals, the date the consulate or domestic field office was notified must also be entered. These steps are important because the case will remain pending in CAMINO until these steps are taken. For approvals, the case will be considered complete in CAMINO as of the date entered into the USCIS/Consulate Notified date (after supervisory review date and applicant notified fields are updated) For denials, the case will be considered complete as of the date entered into the Applicant Notified field (after supervisory review date is updated).

A copy of the signed Parole Authorization Memo should be placed on the non-record side (right side) of the A-file or T-file. A copy of the Parole Approval Letter or the Parole Denial Letter should be placed on the record side of the file, or left side.

### **E. Post-adjudication File Management**

After the decision is mailed and CAMINO has been updated, the administrative staff will remove the case file coversheet, place it in the right side of the file, and then place the file in the appropriate staging area for filing. For cases processed by HAB, the records staff will place files on the appropriate shelf in the file room under the Approval or Denial 60 day hold shelves. At the end of the 60 days, the administrative staff will send the file to the National Records Center (NRC).

### **F. Alerting Post regarding Derogatory Information**

In the parole authorization memo, post must be notified of any inadmissibilities or other material derogatory information (such as a prior conviction) taken into consideration in the case adjudication. This information will keep consular staff, who may become aware of derogatory information during their background and security check review process prior to issuance of a



boarding foil, from having to communicate with HAB regarding whether HAB considered this derogatory information in the case adjudication.

## **G. Possible Derogatory or Additional Identity Information Discovered during Foil Processing at Post**

In some cases, new derogatory information for a parole beneficiary will be discovered by DOS in the course of conducting background and security checks related to DS-160 processing. If derogatory information involving a criminal history or national security concern, or new identity information, is found when running such checks, DOS may not issue a boarding foil. DOS will immediately notify the HAB staff member who sent the parole authorization memo, and all those copied on the email, to inform them of the new identity and/or derogatory information discovered, and will await USCIS resolution of the new information before taking further action.

Once HAB has received notification of new identity or derogatory information from DOS, the case file will be pulled and given to the supervisor assigned to the case. The supervisor will review the case to determine whether the new identity or derogatory information was known and considered by the adjudicating officer at the time of the decision, and proceed accordingly.

### **1. Information previously known and considered**

If the identity or derogatory information provided by DOS was already known and considered at the time of the approval, the supervisor will send an email notification to DOS indicating that the information has been reviewed, the decision to approve parole still stands, and DOS is authorized to issue a boarding foil to the beneficiary.

### **2. Information not previously known and considered**

If the new information was not known and considered previously, the supervisor will return the case to the adjudicating officer to conduct new background and security checks or to resolve the derogatory information. Prior to returning the case to the adjudicating officer, the supervisor will complete the following actions in CAMINO:

- Unlock the case.
- Remove the existing values from the following fields:
  - Checks complete
  - Decision
  - Supervisor Review Complete
- Tag the case with “New DOS Info” in the Case Tag Module
- Indicate in the “Remarks” field that the case is being reopened for adjudication based on new information provided by DOS and identify whether the new information is related to new identity information, derogatory information, or both.



If the case is returned to the adjudicating officer, based on new identity information provided by DOS, the officer will re-run security checks for the parole beneficiary using the new identity information, such as a different name, date of birth, or country of birth that was not used when conducting prior background and security vetting.

If the case is returned to the adjudicating officer based on derogatory information provided by DOS, the officer will assess the new information, request additional information about the hit from the record holder through FDNS when necessary, and determine whether the parole approval decision should be affirmed, or if the parole application should now be denied based on the derogatory information.

If the adjudicating officer's decision is still to approve parole after security checks are re-run on the new identity information and/or derogatory information and the results are reviewed and resolved, the officer will take the following actions:

- Update the "Security Check" module in CAMINO;
- Update the "Decision" fields in CAMINO;
- Update the "Remarks" field to explain why the new information did not change the decision to approve; and
- Submit the case for supervisory review.

If the adjudicating officer's decision is to deny parole after rerunning security checks, or after consideration of derogatory information, the officer will take the following steps:

- Update the Parole Adjudication Worksheet without deleting the previous Parole Adjudication Worksheet;
- Update the "Security Checks" module in CAMINO if security checks were rerun;
- Update the "Decision" fields in CAMINO;
- Update the "Remarks" field to explain that HAB will issue a NOID based on new information from DOS, and reference the new Parole Adjudication Worksheet;
- Prepare a NOID for the petitioner and representative of record, if applicable; and
- Submit the case for supervisory review.

After supervisory concurrence with an approval moving forward, or NOID after new identity or derogatory information is reviewed, the supervisor will take the following actions:

- Update the "Supervisory Review Complete" field in CAMINO;
- If approval still stands, email the Embassy or Consulate to proceed with issuing the boarding foil and include a hard copy of the email in the A-file; or
- If the decision is now to issue a NOID, sign the NOID and forward to the appropriate staff member for mailing to the petitioner and representative of record, if applicable, and for updating the notification fields in CAMINO; and
- Email the Embassy or Consulate that HAB will issue a NOID based on the new information from DOS and attach the NOID to the email so that DOS can provide it to the applicant when he or she returns to the Embassy or Consulate expecting to receive the boarding foil.

## **H. RAILS**

All staff members are responsible for tracking the movement of all files within the office using RAILS. Administrative staff need to access files for interfiling, to respond to requests, and for audits. The movement of all files entering or leaving an office or other location must be documented in RAILS by every staff member to ensure that files can be located when needed.

DRAFT

## APPENDIX

### Appendix A – Overview of State Department SPB Case Procedures

Outlined below are some of the key differences in adjudicating State Department Significant Public Benefit (SPB) cases.

#### State Dept. SPB Cases:

1. On the PAW, under Section A, Parole Request, check box: **U.S. Executive Government Agency (non-DHS)** for State Department requests.

#### **A. PAROLE REQUEST**

---

Parole was requested by:

☐ Form I-131



☐ U.S. Executive Government Agency (non-DHS)

☐ DHS

---

1. The DOS paperwork submitted for the case will list a DOS Case Manager for the SPB request. The case managers are helpful in following up on any additional documentation needed to complete the case. You will often need to confirm with DOS to which Post the Parole Authorization Memo should be sent, if the case is approved, as individuals granted SPB may be fleeing their country and in transit during the time of the adjudication.
2. Copy our DOS contact in the DOS/CA/VO office, your supervisor, and the HAB Chief on any emails.
3. Sponsors will sometimes be a NGO or other organization rather than an individual.
4. Typically, parole will be found to be temporary in nature, as the individual may appear to have a colorable asylum claim and thus may pursue asylum in the U.S.
5. **A SPB Parole Authorization Memo is sent to Post. No Approval Letter is issued.**
6. On the Parole Authorization Memo, for Contact Information (at the bottom of the page), you will list the Case Manager for the SPB Case and the HAB State Department contact at DOS/CA/VO.

Sample Parole Authorization Memo Contact Information:

Contact Information:

\_\_[Name]\_\_, DOS/CA/VP/P

[Name@state.gov](mailto:Name@state.gov)

Tel: 202-XXX-XXXX

\_\_[Name]\_\_, DOS/DRL/EAP

[Name@state.gov](mailto:Name@state.gov)

Tel: 202-XXX-XXXX



## Appendix B – Form I-131 Record of Proceeding File Order

As of December 9, 2016, the Lockbox service provider instituted the Record of Proceeding (ROP) file order for humanitarian parole requests that are forwarded to HAB.

Lockbox - Left Inside of Folder	Lockbox - Right Inside of Folder
<ul style="list-style-type: none"> <li>* Valid G-28(s)</li> <li>* I-131</li> <li>* I-912 / Fee Waiver Letter</li> <li>* G-1145</li> <li>* Green Multiple Reject Letter</li> <li>* I-134</li> <li>* I-797 Proof of Prior Filing</li> <li>* All ID related photocopies</li> <li>* Statement(s) in support of the application</li> <li>* All other Supporting Documents</li> <li>* Large Plastic Bag (opening face down)</li> <li>* Mailing Envelope (address face up)</li> </ul>	<ul style="list-style-type: none"> <li>* Invalid G-28(s)</li> <li>* Property Envelope (facing down with opening at bottom)</li> </ul>

Note: Translations shall accompany the particular document being translated, where the document type can be identified. If the translation cannot be associated with a particular document, JPMorgan shall index and place the translation in ROP order as Other Supporting Documentation.

Note: Information supplied on supplemental sheets shall be indexed and placed in ROP order with the document type to which it is associated.

HAB Record Side (Left - Top to Bottom)	HAB Non-Record Side (Right - Top to Bottom)
Decision Letter	Parole Case Cover Sheet/Checklist
NOID (if applicable)	Email to Post/Field Office accompanying Parole Authorization Memo (for approvals)
Request for Evidence/Response	Parole Authorization Memo (for approvals)
Notification of Receipt of Request for Parole	Parole Adjudication Worksheet
G-28, if applicable	CAAP Memo (if applicable)
I-131 Application with Supporting Documentary Evidence including Statements/Affidavits	Internal emails/communications regarding the case (in order from most recent to oldest)
ID Documents of Petitioner/Beneficiary	Officer notes, research on country conditions, medical information, etc.

Relationship Documents between Petitioner and Beneficiary	CAMINO Person Profile w/ applicable security check results in the following order:
Marriage/Birth/Death Certificate	Beneficiary
Adoption Decree	Petitioner
Divorce Decree or Court documents	Sponsor(s)
I-134 Affidavit of Support	File request information
ID Documents of Sponsor (if not Petitioner)	Miscellaneous Printouts (if applicable)
I-134 Supporting Documents	
Miscellaneous Evidence (if applicable)	

## **Appendix C – Decision Checklist**

- ✓ Legally Sufficient and consistent with agency policy:

Include analysis of whether the applicant established urgent humanitarian reasons for parole or significant public benefit

Apply discretion, balancing the positive factors against the negative factors

- ✓ Identify parties and their current legal status
- ✓ Articulate the basis for the request
- ✓ Address the sponsor's ability to support the beneficiary
- ✓ Address any past immigration history
- ✓ Provide results of all security checks using all aliases and dates of birth on any document in the file or found in a check of security databases.
- ✓ Identify any derogatory information whether discovered from security checks or other information in the file
- ✓ Provide the outcome of any criminal record or national security information
- ✓ State the decision and include an analysis of the applicable facts

### **RFE, if applicable –**

Send when appropriate according to Parole Training Module and Procedures Manual

Include all information necessary to make a decision

Clearly articulate information received and reasons for additional information being requested

### **NOID, if applicable –**

Send when appropriate according to Parole Training Module and Procedures Manual

Include all information necessary to make a decision

Clearly articulate information received and reasons for additional information being requested



Clearly articulate any derogatory information unknown to the petitioner to provide him or her with an opportunity to respond

Clearly indicate the date that the NOID response is due

**Procedural Reminders:**

- Update RAILS
- Verify correct address used
- Representative notified
- Security checks in proper order
- CAMINO person profile for each individual
- ROIT for each individual
- TECS Resolution Memo where required
- A file/T-file in proper order
- Case file coversheet updated
- CAMINO remarks and decision entries completed
- I-131 stamped with decision

## Appendix D – Parole Approval Memo Processing/ Email to Consular Post

If the designated administrative staff is unavailable to email the parole approval memo to post, and to mail the parole approval letter to the petitioner, the adjudicating officer should complete the following steps:

- Email Parole Authorization Memo(s) to post addressing all required POCs as noted in the Parole Authorization Memo (Consular Chief and NIV Chief and cc: [CA-VO-ParoleNotifications@state.gov](mailto:CA-VO-ParoleNotifications@state.gov) (State Department Visa Office), the HAB inquiries box, the HAB Chief, HAB Supervisory Adjudications Officers, the HAB case adjudication officer, and the HAB Staff Assistant.
- Mail out Approval Notice to the petitioner, and representative if applicable, and send a copy by HAB email for urgent cases, placing a copy of the accompanying email in the A-file. Place a note in CAMINO case remarks indicating delivery of the memo and approval notice.
- Mark the appropriate boxes in CAMINO to indicate that both post and the applicant were notified of the approval decision. Save these changes and confirm that the clock shows “stopped,” which indicates the case is completely closed.
- Place the sealed envelope with the approval notice in the appropriate box in the HAB staging area before 12:45 pm each day.
- Add initials and dates to the case coversheet with initials for steps for mailing the approval notice and sending the memo to post. Place the coversheet inside the file on the right side along with the parole authorization memo underneath along with the copy of the email sent to Post with the memo.
- Place a copy of the parole approval notice on the left-hand side of the file.
- Place a post-it note on the inside cover of the right side of the file, noting the date the file can be forwarded to the NRC. This date should be 60 days after the memo was sent to post. The note should be positioned so it can be read on a file shelf.
- Re-assign the case in RAILS to AG 8272 and place the file in the box for approvals in the HAB staging area.

Template language for the body of the email can be found on the HAB ECN site, [Draft HAB Correspondence Guide](#). The subject line of the email from the HAB Inquiries Box should always include URGENT, and confirmation that the memo was received should be requested. If the case is extremely urgent, the case may be marked with High Importance in Outlook, and the words EXTREMELY URGENT should be included in the subject line. The email can include information on the basis for the urgency, or other unique circumstances, if applicable.

# **Exhibit D**



## A. Parole Request

Parole was requested by:

Form I-131

Reason parole requested:

Family based, Protection

Please provide a brief summary of the parole request and the status of all parties to the request

# PLAINTIFF PII REDACTION

## B. Analysis of Parole Reason

Does a preponderance of the evidence establish that there are urgent humanitarian reason(s) for the beneficiary to travel to the U.S.? No

Does a preponderance of the evidence establish that there would be a significant public benefit for the beneficiary to travel to the U.S.? Yes

Please provide a brief justification/analysis below for responses to #1 & #2 above:

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

7 Form Type: I-131

[illegible]

\_\_\_\_\_

\_\_\_\_\_

## C. The Exercise of Discretion

Does the evidence establish that sufficient non-public financial resources are available to support the beneficiary of the parole request?

Does the evidence establish that parole would be temporary in nature?

If "Yes," select the reason the parole is temporary in nature:

Please explain:

Does the evidence establish that, under the circumstances, a U.S. visa or other immigration process would enable the beneficiary to enter the U.S. in time to address the reason for parole?

If "No," check the applicable reason below:

Please explain:

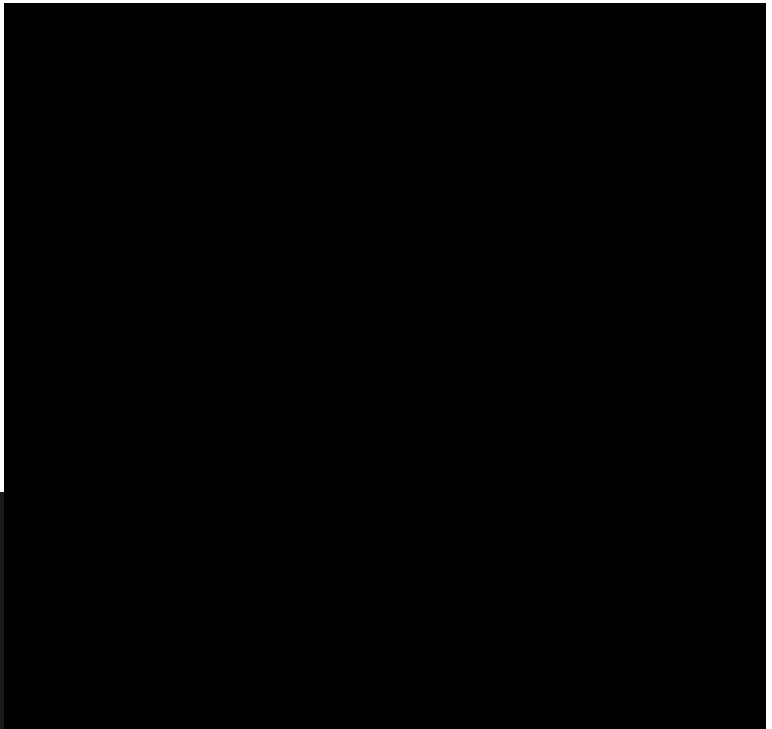
Does the evidence establish that the beneficiary complied with all U.S. immigration laws in the past?

Are there additional positive or negative factors that you considered in the exercise of discretion not listed in Section C, #1-5, above?

If "Yes," please briefly describe additional discretionary factors considered:

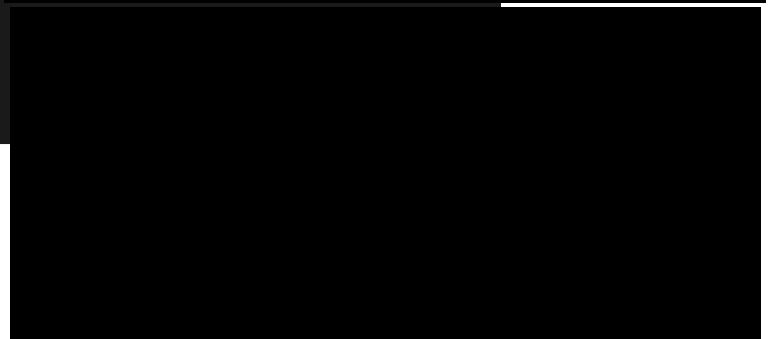


Please provide a justification/analysis regarding why parole authority should or should not be exercised favorably (by weighing the positive factors against the negative factors):

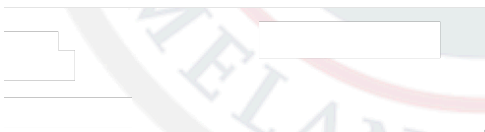


Should NCTC/OAW Checks be initiated?

If "No", please explain why or add any relevant comments below:



Is there any derogatory information discovered during required security and background vetting?



# Render Case Decision

## Case Decision: Denied

**Decision Date:**

05/24/2022

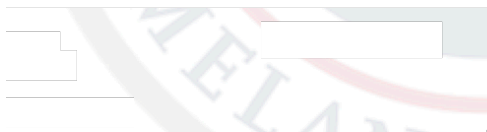
## Decision Notes

Note	User	Date
	PLAINTIFF PII REDACTION	03/07/2022
		03/03/2022

# Case Comments

## Case Comments

No case comments found on file.





# **Exhibit E**

## PAROLE ADJUDICATION WORKSHEET (Rev. 11/16/2017)

A-Number: A220-993-154

Beneficiary of Request:

PLAINTIFF PII REDACTION

**Note:** First-line supervisory review is required for all parole cases.

First- and second-line supervisory review is required for all cases in which a security, terrorist or adverse foreign policy inadmissibility ground exists and the officer's preliminary decision is to approve parole. *See* INA, §§ 212(a)(3)(A), (B), (C), (E) or (F). The second-line supervisor should also be notified prior to decision on any case that is high profile/likely to be publicized or involves a novel or particularly sensitive issue.

**1. FIRST-LINE SUPERVISOR**

☒ Concur with decision.

☐ Disagree with decision (Explanation is required on Decisional Quality Assurance Checklist if supervisor does not concur with decision).

Comments (if applicable):

Name of Supervisor:

PLAINTIFF PII REDACTION

Date:

12/3/2021

**2. SECOND-LINE SUPERVISOR**

# **Exhibit F**



District of Massachusetts  
Privilege Log for Individual Records

Baddar Boe Group

Privilege Log for A231613993 – PLAINTIFF PII REDACTION			
PDF page #	Section Title	Privilege	Description
29-31	Parole Adjudication Analysis	Deliberative Process	Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.
61-62; 66; 79; 96-98; 171; 173; 176	Supporting Evidence	CONFIDENTIAL – ATTORNEY'S EYES ONLY	Information protected from disclosure by 8 CFR 208.6

Privilege Log for A231621142 – PLAINTIFF PII REDACTION			
PDF page #	Section Title	Privilege	Description
29-31	Parole Adjudication Analysis	Deliberative Process	Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.
61-62; 76; 93-95; 165	Supporting Evidence	CONFIDENTIAL – ATTORNEY'S EYES ONLY	Information protected from disclosure by 8 CFR 208.6

Privilege Log for A231613921 – PLAINTIFF PII REDACTION			
PDF page #	Section Title	Privilege	Description
32-34	Parole Adjudication Analysis	Deliberative Process	Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.
64-65; 78; 95-97; 191	Supporting Evidence	CONFIDENTIAL – ATTORNEY'S EYES ONLY	Information protected from disclosure by 8 CFR 208.6

Privilege Log for A231620670 – PLAINTIFF PII REDACTION			
PDF page #	Section Title	Privilege	Description
30-32	Parole Adjudication Analysis	Deliberative Process	Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.
62-63; 75; 92-94; 164	Supporting Evidence	CONFIDENTIAL – ATTORNEY'S EYES ONLY	Information protected from disclosure by 8 CFR 208.6

Privilege Log for A231620612 – PLAINTIFF PII REDACTION			
PDF page #	Section Title	Privilege	Description
29-31	Parole Adjudication Analysis	Deliberative Process	Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.
61-62; 74; 91-93; 164	Supporting Evidence	CONFIDENTIAL – ATTORNEY'S EYES ONLY	Information protected from disclosure by 8 CFR 208.6

District of Massachusetts  
Privilege Log for Individual Records

Basel Boe PLAINTIFF PII REDACTION

Privilege Log for A231596378 –			
PDF page #	Section Title	Privilege	Description
28-32	Parole Adjudication Analysis; Render Case Decision – Decision Notes	Deliberative Process	Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate, as well as pre-decisional notations by the first-line adjudicator. This is submitted for supervisory review and ultimate decision-making.
199; 202-203	CCD Printouts	Law Enforcement/Third Agency (DOS)	URL for third party government database. Third agency data owner is not a party to the litigation; redacted information is a government database internet address, which, if disclosed, might allow 3d parties the ability to corrupt the contents of the database.
8; 26; 42; 56; 126; 132; 139; 153; 183-184; 201	Supporting Evidence	CONFIDENTIAL – ATTORNEY'S EYES ONLY	Information protected from disclosure by 8 CFR 208.6

PLAINTIFF PII REDACTION

Privilege Log for A231594028 –			
PDF page #	Section Title	Privilege	Description
28-32	Parole Adjudication Analysis; Render Case Decision – Decision Notes	Deliberative Process	Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate, as well as pre-decisional notations by the first-line adjudicator. This is submitted for supervisory review and ultimate decision-making.
41; 114; 121; 123; 138; 168-169	Supporting Evidence	CONFIDENTIAL – ATTORNEY'S EYES ONLY	Information protected from disclosure by 8 CFR 208.6

PLAINTIFF PII REDACTION

Privilege Log for A231596486 –			
PDF page #	Section Title	Privilege	Description
28-30	Parole Adjudication Analysis; Render Case Decision – Decision Notes	Deliberative Process	Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate, as well as pre-decisional notations by the first-line adjudicator. This is submitted for supervisory review and ultimate decision-making.
8; 26; 101; 108; 110; 125; 155-156	Supporting Evidence	CONFIDENTIAL – ATTORNEY'S EYES ONLY	Information protected from disclosure by 8 CFR 208.6

PLAINTIFF PII REDACTION

Privilege Log for A231596491 –			
PDF page #	Section Title	Privilege	Description
28-31	Parole Adjudication Analysis; Render Case Decision – Decision Notes	Deliberative Process	Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate, as well as pre-decisional notations by the first-line adjudicator. This is submitted for supervisory review and ultimate decision-making.
8; 26; 50; 113; 120; 122; 137; 167-168	Supporting Evidence	CONFIDENTIAL – ATTORNEY'S EYES ONLY	Information protected from disclosure by 8 CFR 208.6

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Doe Group

Privilege Log for A220993148_CTC - PLAINTIFF PII REDACTION			
PDF page #	Section Title	Privilege	Description
592-594	CCD Printouts	Law Enforcement/Third Agency (DOS)	URL for third party government database. Third agency data owner is not a party to the litigation; redacted information is a government database internet address, which, if disclosed, might allow 3d parties the ability to corrupt the contents of the database
612-614	Parole Adjudication Worksheet	Deliberative Process	Adjudicator Analysis. Redacted lines are the first line adjudicator's analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.
617	Parole Adjudication Worksheet	Law Enforcement	First Line Supervisor + Second-Line Supervisor Section. Section withheld as presence or absence of markings may allow for inference regarding whether there are national security concerns regarding beneficiary.

Privilege Log for A220993150_CTC - PLAINTIFF PII REDACTION			
PDF page #	Section Title	Privilege	Description
610-612	Parole Adjudication Worksheet	Deliberative Process Privilege	Adjudicator Analysis. Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.
614	Parole Adjudication Worksheet	Law Enforcement	First Line Supervisor + Second-Line Supervisor Section. Section withheld as presence or absence of markings may allow for inference regarding whether there are national security concerns regarding beneficiary.

Privilege Log for A220993151_CTC - PLAINTIFF PII REDACTION			
PDF page #	Section Title	Privilege	Description
622-624	CCD Printouts	Law Enforcement/Third Agency (DOS)	URL for third party government database. Third agency data owner is not a party to the litigation; redacted information is a government database internet address, which, if disclosed, might allow 3d parties the ability to corrupt the contents of the database
643-645	Parole Adjudication Worksheet	Deliberative Process Privilege	Adjudicator Analysis. Redacted lines are the first line adjudicator's analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.
648	Parole Adjudication Worksheet	Law Enforcement	First Line Supervisor + Second-Line Supervisor Section. Section withheld as presence or absence of markings may allow for inference regarding whether there are national security concerns regarding beneficiary.



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Privilege Log for A220993152			
PDF page #	Section Title	Privilege	Description
621-626	CCD Printouts	Law Enforcement/Third Agency (DOS)	URL for third party government database. Third agency data owner is not a party to the litigation; redacted information is a government database internet address, which, if disclosed, might allow 3d parties the ability to corrupt the contents of the database
652-654	Parole Adjudication Worksheet	Deliberative Process Privilege	Adjudicator Analysis. Redacted lines are the first line adjudicator's analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.
657	Parole Adjudication Worksheet	Law Enforcement	First Line Supervisor + Second-Line Supervisor Section. Section withheld as presence or absence of markings may allow for inference regarding whether there are national security concerns regarding beneficiary.

Privilege Log for A220993153			
PDF page #	Section Title	Privilege	Description
592	CCD Printouts	Law Enforcement/Third Agency (DOS)	URL for third party government database. Third agency data owner is not a party to the litigation; redacted information is a government database internet address, which, if disclosed, might allow 3d parties the ability to corrupt the contents of the database
606-608	Parole Adjudication Worksheet	Deliberative Process Privilege	Adjudicator Analysis. Redacted lines are the first line adjudicator's analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.
611	Parole Adjudication Worksheet	Law Enforcement	First Line Supervisor + Second-Line Supervisor Section. Section withheld as presence or absence of markings may allow for inference regarding whether there are national security concerns regarding beneficiary.

Privilege Log for A220993154_CTC -			
PDF page #	Section Title	Privilege	Description
592-595	CCD Printouts	Law Enforcement/Third Agency (DOS)	URL for third party government database. Third agency data owner is not a party to the litigation; redacted information is a government database internet address, which, if disclosed, might allow 3d parties the ability to corrupt the contents of the database
615-617	Parole Adjudication Worksheet	Deliberative Process Privilege	Adjudicator Analysis. Redacted lines are the first line adjudicator's analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.
620	Parole Adjudication Worksheet	Law Enforcement	First Line Supervisor + Second-Line Supervisor Section. Section withheld as presence or absence of markings may allow for inference regarding whether there are national security concerns regarding beneficiary.

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PLAINTIFF PII REDACTION

Privilege Log for A220993158 - CAR index - [REDACTED]			
PDF page #	Section Title	Privilege	Description
621	CCD Printouts	Law Enforcement/Third Agency (DOS)	URL for third party government database. Third agency data owner is not a party to the litigation; redacted information is a government database internet address, which, if disclosed, might allow 3d parties the ability to corrupt the contents of the database
635-637	Parole Adjudication Worksheet	Deliberative Process Privilege	Adjudicator Analysis. Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.
640	Parole Adjudication Worksheet	Law Enforcement	First Line Supervisor + Second-Line Supervisor Section. Section withheld as presence or absence of markings may allow for inference regarding whether there are national security concerns regarding beneficiary

Roe v. Mayorkas  
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Moe Group

Privilege Log for A231629167_			
PDF page #	Section Title	Privilege	Description
28-31	Parole Adjudication Worksheet; Render Case Decision	Deliberative Process Privilege	Adjudicator Analysis, Decision Notes. Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.

Privilege Log for A231628674_			
PDF page #	Section Title	Privilege	Description
28-31	Parole Adjudication Worksheet; Render Case Decision	Deliberative Process Privilege	Adjudicator Analysis, Decision Notes. Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.

Privilege Log for A231627376_			
PDF page #	Section Title	Privilege	Description
28-31	Parole Adjudication Worksheet; Render Case Decision	Deliberative Process Privilege	Adjudicator Analysis, Decision Notes. Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.



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Noe Group

Privilege Log for A231590007 PLAINTIFF PII REDACTION			
PDF page #	Section Title	Privilege	Description
23-24	Parole Adjudication Worksheet	Deliberative Process Privilege	Adjudicator Analysis. Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.

Privilege Log for A231590992 PLAINTIFF PII REDACTION			
PDF page #	Section Title	Privilege	Description
23-24	Parole Adjudication Worksheet	Deliberative Process Privilege	Adjudicator Analysis. Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.

Privilege Log for A231588815_CTC - PLAINTIFF PII REDACTION			
PDF page #	Section Title	Privilege	Description
23-25	Parole Adjudication Worksheet; Render Case Decision	Deliberative Process Privilege	Adjudicator Analysis, Decision Notes. Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.

Privilege Log for A231591281_CTC - PLAINTIFF PII REDACTION			
PDF page #	Section Title	Privilege	Description
23-24	Parole Adjudication Worksheet	Deliberative Process Privilege	Adjudicator Analysis. Redacted lines are the first line adjudicators' analysis of the evidence submitted and details supporting the recommendation for a decision on this individual's application, including analysis on whether an exercise of discretion is appropriate. This is submitted for supervisory review and ultimate decision-making.

# **Exhibit G**



**Policy Branch**  
**International and Refugee Affairs Division**  
 Refugee, Asylum and International Operations  
 U.S. Citizenship and Immigration Services

Parole Requests for Afghan Nationals  
 Interim Policies and Procedures

**Date: November 5, 2021<sup>1</sup>**

**Background:**

On August 29, 2021, the Department of Homeland Security (DHS) became the lead agency implementing the ongoing U.S. Government efforts to support vulnerable Afghan nationals, including many who were evacuated with U.S. Government and private partner assistance from Afghanistan following the withdrawal of the U.S. military from Afghanistan. These coordinated efforts are known as Operation Allies Welcome (OAW) and include comprehensive screening and vetting and additional medical screening and vaccination of Afghan nationals paroled into the United States.

USCIS has developed vetting and medical-related requirements to apply Operation Allies Welcome policies to the adjudication of parole requests for Afghan nationals received through Form I-131 or U.S. government referrals that are under International and Refugee Affairs Division's (IRAD) jurisdiction.<sup>2</sup> This guidance outlines these policies and procedures, as well as eligibility considerations that are specific to parole of Afghan nationals, taking into account the evolving situation in Afghanistan, U.S. policy interests, and other protection mechanisms in place for vulnerable Afghan nationals.

**Eligibility:**

Adjudicators must follow the [HAB Procedures Manual](#) and the [Parole Training Module](#) when adjudicating parole requests for Afghan nationals. Although parole requests may be similar in nature, each application must be evaluated on its own merits taking into account all the factors unique to the specific parole request and considering the totality of the circumstances. Given the conditions specific to Afghanistan and the implementation of OAW, adjudicators must follow the additional guidance specific to parole requests for Afghan nationals outlined below.

<sup>1</sup> OCC/RALD and OP&S clearance received November 4, 2021

<sup>2</sup> Many Afghan nationals were transported to the United States by the USG and were paroled at the ports of entry by CBP. Afghan nationals who remain overseas are eligible to apply for humanitarian parole with USCIS by filing the Form I-131, Application for Travel Document. USCIS also receives requests for parole through executive agency referrals. Humanitarian parole requests are adjudicated by IRAD's Humanitarian Affairs Branch (HAB) and, if approved, the individual must visit a U.S. embassy or consulate to complete processing (including biometric security checks) and receive travel documents.



The interagency is prioritizing relocation to the United States of the following categories of Afghan nationals who have been able to leave Afghanistan:

- Immediate relatives of a U.S. Citizen (spouse, unmarried children under 21, and parents);
- Immediate relatives of a U.S. Lawful Permanent Resident (spouse and unmarried children under 21);
- Locally Employed Staff (LES)<sup>3</sup> of U.S. Embassy Kabul and their immediate family (spouse and unmarried children under 21);
- Special Immigrant Visa (SIV) applicants who have received Chief of Mission (COM) approval and immediate relatives (spouse and unmarried children under 21) included on their case;
- Immediate relatives of Afghan nationals previously relocated to the United States through OAW (spouse, unmarried children under 21, and, in the case of unaccompanied minors relocated as part of OAW, their primary caregiver, including but not limited to a parent or legal guardian, and the spouse and dependent children under 21 of the primary caregiver); and
- Individuals referred to the U.S. Refugee Admissions Program (USRAP) through a P1 embassy referral or P2 group designation referral **and in imminent risk of *refoulement* or serious, targeted harm** in the country outside Afghanistan where they are located.

Membership in one of these groups outlined above should be considered a strong positive factor when assessing urgent humanitarian reasons, significant public benefit, and the exercise of discretion.

Special Immigrant Visas (SIV): Special immigrant applicants who have received COM approval have provided the Department of State with evidence to show they have provided faithful and valuable service to the U.S. Government and have experienced an ongoing serious threat. COM approval is a strong positive factor when assessing significant public benefit and urgent humanitarian reasons. SIV applicants who have not received COM approval must provide third party, credible evidence of their work for the U.S. government (see below section on Evidence), as well as evidence of imminent, targeted severe harm or a particular vulnerability (such as a serious medical condition or a single female without support) to show why they are unable to wait to complete SIV or refugee processing. Adjudication officers can find evidence of COM approval by looking in CCD. Evidence of an approved I-360 petition in CLAIMS3 would also be a strong indicator that the individual has received COM approval.

Protection Claims and P1/P2 Refugee Referrals: Parole is not intended to replace refugee processing and, wherever possible, it is USG policy to process protection needs through the U.S. Refugee Admissions Program (USRAP). However, in some circumstances, the protection needs are so urgent that processing via the USRAP, which can take six months or more for an expedited case, is not a realistic option to accord needed protection. While each case is unique and parole determinations are made based on the totality of the circumstances, USCIS generally approves requests based on protection needs only if there is credible, third-party evidence naming the beneficiary that shows the beneficiary is targeted and at imminent risk of severe harm. The interagency has prioritized relocation efforts for those Afghan nationals who have been referred as P1 or P2 refugee referrals if they are in imminent risk of serious, targeted harm in the country outside of Afghanistan where they are located and processing through the USRAP is not an option. The Department of State is developing procedures so that a State Department Refugee Coordinator, working closely with the United Nations High Commissioner for

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<sup>3</sup> Locally Employed Staff are foreign nationals and other locally resident citizens who are legally eligible to work in the country and are employed by the U.S. embassy or consulate.

Refugees, can identify Afghan refugee applicants who are at such risk or have specific vulnerabilities such that expedited refugee processing will not meet the protection needs. In those situations, the Department of State will present a government referral to IRAD for consideration of parole.

While receiving these cases through the government referral process is the preferred approach, that does not preclude individuals from submitting requests for parole using Form I-131 based solely on protection needs. However, the evidentiary burden for those who are not P1/P2 referred applicants for whom PRM and/or UNHCR has confirmed is at imminent risk, will remain high.

#### *Beneficiaries still in Afghanistan*

Since the U.S. Embassy in Afghanistan has suspended operations, including all normal consular services, a beneficiary will be required to leave Afghanistan in order to complete processing of their parole request. If an adjudicator finds that a beneficiary residing in Afghanistan is initially found eligible for parole, the adjudicator may issue a Parole Notice (Suspension of Processing) stating that USCIS cannot complete processing of the parole request unless and until the beneficiary informs USCIS that they are able to report to a U.S. embassy or consulate. It may be difficult to assess eligibility based purely on protection needs while an individual is still in Afghanistan, as the adjudicator will not know when or how the beneficiary will leave Afghanistan, where the beneficiary will be once outside of Afghanistan, or the protection that may be available to the beneficiary in that location. Therefore, for Afghan nationals in Afghanistan, parole requests based on protection needs, without other factors, such as the beneficiary's falling into one of the categories of Afghan nationals prioritized by the interagency, family reunification, or urgent medical needs, generally will be denied. Such parole beneficiaries should be given denial notices informing them that 1) their parole applications cannot be approved at this time and that, should they get to a third country, they should contact the United Nations High Commissioner for Refugees (UNHCR) for protection and consideration of refugee resettlement in the United States through the U.S. Refugee Admissions Program; and 2) should they be at imminent risk of severe harm in that third country or forced return to Afghanistan, they should contact USCIS with information on whether they have contacted UNHCR for protection assistance and include any third-party credible evidence of their risk in that third country. USCIS will consider reopening the denied parole application (for no fee) within a year from the denial and may reconsider their request if sufficient additional new evidence is provided.

#### *Beneficiaries outside of Afghanistan*

Generally, beneficiaries in need of protection should be directed to contact UNHCR. UNHCR has more direct access to information about the beneficiary and conditions in the host country and can consult with the State Department Refugee Coordinator to assess urgency and the most appropriate protection path, including referral for parole, expedited refugee processing for resettlement in the United States, or resettlement in a third country. Parole is not intended to replace normal refugee processing channels and therefore discretion generally will be exercised to deny a request for parole based on a protection need in lieu of channeling vulnerable individuals through the normal protection channels. However, some vulnerable beneficiaries may be eligible for parole based on the specific circumstances of the beneficiary. When assessing parole eligibility, the adjudicator must review the Form I-131 application carefully for any other factors in addition to the protection request, such as family unity, specific vulnerability that may put the beneficiary at risk of imminent harm in the third country, the possibility of imminent refoulement to Afghanistan, and/or whether the beneficiary has access to UNHCR, depending on the location. The adjudicator should assess the totality of the circumstances to determine whether there are urgent humanitarian factors or significant public benefit reasons for parole and whether discretion should be exercised favorably. A combination of factors in addition to protection needs –

such as factors related to family unity or other close U.S. ties and specific vulnerability – should be considered favorably.

Beneficiaries of Form I-130 or Form I-730 Petitions:

While parole generally is not used to circumvent normal immigration processing channels, family reunification is a positive factor when assessing parole eligibility, particularly when combined with other factors related to vulnerability and when normal immigration processing channels are insufficient to address the need for parole. There often are significant public benefit reasons to promote family unity, particularly with respect to vulnerable family members (for example, when the separated vulnerable family member is outside the United States, or the beneficiary is needed to assist a vulnerable family member inside the United States). Family unity is also a positive factor in the exercise of discretion.

*Approved Form I-130 and Form I-730 Petitions*

A vulnerable Afghan national who is the beneficiary of an approved Form I-130 petition may be eligible for parole if there are no negative discretionary factors that outweigh the positive factors of risk and family reunification. Vulnerability may be based on age, status (e.g., single female, LBGTQI+ status, religious minority status), medical condition, association with the United States, etc. Adjudicators should review PCQS (CLAIMS 3 and ELIS2) and the A-file to confirm the status of any prior petitions filed for the beneficiary. Generally, parole is not to be used to circumvent normal visa processing.

If the beneficiary has an approved Form I-130 petition and a visa is immediately available (e.g., immediate relatives of U.S. Citizens) or the beneficiary's preference category is current<sup>4</sup>, the processing of the parole request should be suspended (marked closed in the case management system) and the beneficiary referred to immigrant visa processing through the Consular Section unless there are circumstances that indicate the visa process would be significantly delayed beyond the time the beneficiary could safely remain in the third country. IRAD HQ is in regular discussions with the Department of State Consular Affairs (DOS/CA) and will provide updated information about visa processing capacity at posts in the region. Adjudicators may also contact IRAD Policy for information when there are questions in this regard. If the beneficiary is in a particularly vulnerable situation, IRAD Policy can consult with DOS/CA to determine the most expeditious processing based on the specific post.

Similarly, if the Form I-131 beneficiary is also the beneficiary of an approved Form I-730 petition, the beneficiary should be directed to contact the U.S. Embassy or Consulate, or USCIS international office, where the beneficiary is located to transfer the Form I-730 petition for the travel eligibility determination and issuance of a travel document. If the travel document is issued, the beneficiary will be able to enter the United States as an asylee or refugee. Normally, the Department of State process for issuing a boarding foil for a Form I-730 beneficiary is very similar to the process for issuing a boarding foil for a parole beneficiary. IRAD HQ is in regular discussions with the Department of State Consular Affairs (DOS/CA) and will provide updated information about Form I-730 travel eligibility processing capacity at posts in the region. Adjudicators may also contact IRAD Policy for information when there are questions in this regard. If the beneficiary is in a particularly vulnerable situation, IRAD Policy can consult with DOS/CA to determine the most expeditious processing based on the specific post.

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<sup>4</sup> See the Department of State [Visa Bulletin](#) for preference categories and visa availability.



*Pending Form I-130 and Form I-730 Petitions*

When a petition is pending, adjudicators should review the evidence provided to determine whether the beneficiary is at risk of harm if they were to wait for adjudication of the underlying petition and immigrant visa processing or travel document processing (Form I-730), whether sufficient evidence has been provided to support the claimed relationship and risk of harm, and to consider positive and negative discretionary factors. Any harm to the petitioner based on delayed family unification should also be considered. Adjudicators may also reach out to IRAD Policy where there are pending family-based petitions, and IRAD Policy can flag the petition for expedited adjudication with the office that has jurisdiction.

*No Form I-130 and Form I-730 Petition Filed*

When no family-based petition has been filed, but the Form I-131 beneficiary could also be eligible as a beneficiary of a Form I-130 or I-730 Petition based on relationship to a USC, LPR, asylee, or refugee, adjudicators should review the evidence provided to determine whether the beneficiary is at risk of harm if they were to wait for the petition and adjudication process (even if expedited), whether sufficient evidence has been provided to support the claimed relationship and risk of harm, and consider positive and negative discretionary factors have been considered. Any harm to the petitioner based on delayed reunification should also be considered.

The Department of State also has authority to accept Form I-130 petitions filed for immediate relatives at consular posts abroad for expeditious processing in urgent circumstances. Adjudicators may reach out to IRAD Policy to explore whether IRAD HQ could assist in working with partners within USCIS and DOS/CA to expedite the adjudication process if a Form I-130 or I-730 petition were to be filed.

Minors:

Adjudicators should refer to the [HAB Procedures Manual](#) and the [Parole Training Module](#) for additional guidance on adjudicating parole cases for minor children. The Adjudication Programs Coordination Office has also developed the RAIO Afghan Children and Adoption-Related Considerations Primer with information specific to the Afghan population.

Separated Family Members:

During the evacuation of Afghan nationals prior to August 31, 2021, some family members were separated from each other, with certain family members paroled into the United States pursuant to Operation Allies Welcome, some remaining in Afghanistan, and others getting to third countries via other means. There are significant public benefit reasons related to family unity to reunite immediate family members with family members paroled into the United States pursuant to Operation Allies Welcome, which can help improve resettlement outcomes. Reflecting the significant public benefit of this type of family reunification, Congress has authorized resettlement assistance after September 30, 2022, for the spouse and children of Afghan nationals paroled into the United States between July 31,

2021, and September 30, 2022, if their parole has not been terminated, as well as the parent or legal guardian of an unaccompanied Afghan minor paroled into the United States during that period.<sup>5</sup>

There also may be urgent humanitarian reasons to use parole to unite Afghan family members separated during the evacuation efforts, depending on the circumstances of each case. Generally, parole may be appropriate to unite separated immediate family members, including spouses and unmarried children, with an individual who was paroled into the United States as part of Operation Allies Welcome. It may also be appropriate for more extended family members, such as parents, adult children, or siblings, depending on the circumstance of each case and taking into account any vulnerabilities and dependencies among the family members.

#### **Evidence:**

In order to determine whether the beneficiary is eligible for parole, the adjudicating officer should review and evaluate all of the evidence in the record. The adjudicator should refer to the [HAB Procedures Manual](#) and the [Parole Training Module](#) for guidance on assessing relevance and credibility of the evidence provided. Adjudicators should also refer to [8 CFR § 103.2\(b\)\(2\)](#) for regulations regarding the submission of secondary evidence when primary evidence is unavailable.

**Afghan Documents:** Identity and relationship documentation may be lacking in some Afghan parole requests given the circumstances of flight, for those outside of Afghanistan, and due to limitations on the availability of identity documents. For example, according to the September 22, 2021 [Afghan Document Guide](#) produced by the HSI Forensics Lab, citing a UNICEF report, birth certificates are not commonly used in Afghanistan and those that are issued often do not have the child's name. Adjudicators must become familiar with the Afghan Document Guide, which provides detailed information and exemplars of Afghan government documents prior to the recent take-over by the Taliban. Adjudicators are also encouraged to review the [Department of State Reciprocity and Civil-Documents Guide](#) section on Afghanistan. It notes that the main form of identity document used in Afghanistan is the *tazkera* and provides the following comments:

*Afghans usually apply for a tazkera when a child reaches school age, but it can also be obtained and/or modified throughout adulthood. The document traces its holder's roots through the father; mother's names are not usually listed on tazkeras. Tazkeras are hand-written, and there have been multiple variants of the document since 1976. U.S. Embassy Kabul requires all Afghan citizens who are applying for immigrant, special immigrant, or other such visas to submit a tazkera, as proof of identity and birth. Some Afghan citizens may also possess birth certificates issued by clinics or hospitals in Afghanistan, but these documents are not accepted for U.S. visa processing. U.S. Embassy Kabul requires that all tazkeras be accompanied by a certified English translation. The tazkera must first be authenticated by the Ministry of Interior before an English translation may be certified by the Ministry of Foreign Affairs.*

More information will be provided regarding passports and identity documents issued by the Taliban government once it is available.

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<sup>5</sup> See H.R. 5305, Section 2502

[https://www.govtrack.us/congress/bills/117/hr5305/text/enr#link=C\\_V\\_2502\\_a&nearest=H68BB5F7B78D94E92A179EDBCC860C09F](https://www.govtrack.us/congress/bills/117/hr5305/text/enr#link=C_V_2502_a&nearest=H68BB5F7B78D94E92A179EDBCC860C09F)



**Passports:** In general, a parole beneficiary must have a passport to travel. However, when the beneficiary is unable to obtain a passport prior to travel to the United States, the adjudicator must notify the Consular Section that the beneficiary does not have a passport in the authorization memo sent to Post. The Consular Section may issue the boarding foil on the Form DS-232.

**Verifying Work with the U.S. Government:** Copies of letters and certificates from U.S. government agencies or officials can be easily replicated and generally should not be considered strong evidence without credible third-party verification. The Department of Defense (DOD) may be able to verify employment with DOD contractors in certain circumstances. DOD can also verify whether they have referred an individual for P1 or P2 refugee processing, including both individuals who worked for DOD and some who worked for the former Afghan government or military.

IRAD HQ is working to obtain access to the list of P1 and P2 referrals of Afghan nationals to the USRAP. In the near-term, adjudicators can refer cases to IRAD Policy for verification of DOD records if the beneficiary is otherwise eligible for parole (e.g., there is an imminent risk of severe targeted harm, particular vulnerability, or other factors that preclude refugee resettlement or visa processing) and third-party evidence of the beneficiary's claimed work with the U.S. Government is the only outstanding issue. Adjudicators should also send requests for verification of employment by other U.S. Government employers to IRAD Policy, and IRAD Policy will work to establish a mechanism for verifying these requests.

#### **Sponsorship and Resettlement Benefits:**

The continuing resolution for Fiscal Year 2022 passed by Congress on September 30, 2021, provides certain Afghan nationals who were paroled into the United States between July 31, 2021, and September 30, 2022, access to resettlement assistance, entitlement programs, and other benefits normally provided to refugees, and provides similar assistance to certain other Afghan nationals paroled after September 30, 2022.<sup>6</sup> While sponsorship documents are still required for parole requests to ensure beneficiaries have appropriate reception and support while paroled, adjudicators should take into account the benefits provided to certain Afghan parole beneficiaries through the continuing resolution when determining whether the beneficiary will have sufficient support during the authorized parole period in the United States. Sponsorship documents may also provide additional evidence to show U.S. ties, which may be a positive factor when assessing eligibility for parole.

The Department of State has developed a fact sheet on obtaining resettlement benefits, which the Consular Section will provide to the Afghan parole beneficiary at the time of travel foil issuance. After a beneficiary is paroled into the United States, the parolee will need to approach a designated resettlement agency to identify themselves as eligible for these benefits. Although Afghan parolees are entitled to resettlement benefits, it may take several weeks or a month to schedule an appointment with a resettlement agency and begin receiving these benefits after arrival. It is important that Afghan parolees have the support of a sponsor during this period.

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<sup>6</sup> See H.R. 5305, Section 2502

[https://www.govtrack.us/congress/bills/117/hr5305/text/enr#link=C\\_V\\_2502\\_a&nearest=H68BB5F7B78D94E92A179EDBCC860C09F](https://www.govtrack.us/congress/bills/117/hr5305/text/enr#link=C_V_2502_a&nearest=H68BB5F7B78D94E92A179EDBCC860C09F)



**Vetting:**

# Law Enforcement Privilege

**Suspension of Processing Certain Cases:**

Parole beneficiaries must report to a U.S. embassy or consulate to complete processing of their parole request, including identity verification, biometrics collection, and receipt of vaccination records. Adjudicators should issue a Parole Notice (Suspension of Processing) if an Afghan beneficiary is initially found eligible for parole, but the beneficiary is residing in Afghanistan or another country without U.S. consular services. The Parole Notice (Suspension of Processing) states that USCIS cannot complete

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# Law Enforcement Privilege

processing of the parole request unless and until the beneficiary informs USCIS that they are able to report to a U.S. embassy or consulate.

Adjudicators may also issue the Parole Notice (Suspension of Processing) in cases where the beneficiary is initially found eligible for parole but has an approved Form I-730, I-360 (Petition for Amerasian, Widow(er), or Special Immigrant), or I-130 and an immigrant visa is available. The Parole Notice (Suspension of Processing) states that the beneficiary should pursue immigrant visa processing but may notify USCIS once outside of Afghanistan if immigrant visa processing is not a viable option.

The Parole Notice (Suspension of Processing) should only be issued for cases that are initially found eligible for parole **and all biographic vetting, including OAW NCTC vetting, is complete.** Once the Parole Notice (Suspension of Processing) has been issued, the adjudicator should administratively close the case in CAMINO or ELIS, purely for case tracking and workload management purposes. The parole application will remain open for at least a year.

If the petitioner or beneficiary notifies IRAD that the beneficiary is able to report to a U.S. embassy or consulate to continue processing of their case, the adjudicator should verify that the beneficiary is still eligible for parole and that all required USCIS-initiated<sup>10</sup> security checks are valid. For cases where the beneficiary has an approved immigrant petition and the visa is available, the adjudicator must assess whether a reasonable explanation has been provided for why the beneficiary cannot pursue immigrant visa processing, confirm all required USCIS-initiated security checks are valid, and verify that the beneficiary is still eligible for parole. If the adjudicator determines that the beneficiary is still eligible for parole, the adjudicator must re-open the parole request in CAMINO or ELIS and issue a Conditional Approval Notice. An Authorization Memo must also be sent to Post.

#### **Medical Requirements:**

For beneficiaries who are in a location where they can complete Consular processing, adjudicators will generate a Conditional Approval Notice: Referral to Consular Processing if the beneficiary is initially found eligible for parole and all USCIS-initiated vetting has been completed. The Conditional Approval Notice: Referral to Consular Processing notifies the petitioner and beneficiary of the additional steps required to complete processing of their case, including completion of the Form DS-160 and required medical screening and vaccinations through the panel physician. For urgent cases, USCIS or a government referring agency may request documentation of vaccinations through the panel physician before the adjudicator has made an initial decision on eligibility and may consider requiring medical screening for tuberculosis be completed within 30 days of arrival in the United States as a condition of parole. Adjudicators will also generate an authorization memo to Post notifying them of the conditional approval and medical requirements.

In line with current OAW requirements, Afghan parole beneficiaries will be required to complete the following medical screening and vaccinations<sup>11</sup> through a panel physician, unless an exception applies:

- MMR (measles, mumps, rubella) vaccine

<sup>10</sup> DOS/CA conducts additional biometric and biographic checks prior to issuance of a boarding foil.

<sup>11</sup><https://www.cdc.gov/immigrantrefugeehealth/panel-physicians/vaccinations.htm> CDC has additional vaccination age requirements for Afghan nationals: MMR is required for all Afghan nationals 6 months old until those born in or after 1957. Polio vaccination is required for all Afghan nationals 6 weeks or older.

- Polio vaccine
- COVID-19 vaccine (1 dose)<sup>12</sup>
- Other age-appropriate vaccinations, as determined by the panel physician based on guidance issued by the Centers for Disease Control and Prevention (CDC)
- Tuberculosis (TB) screening (the beneficiary is required to take appropriate isolation and treatment measures if the tuberculosis test is positive)

The panel physician will generally complete a Form DS-2054, Report of Medical Examination by Panel Physician, for each beneficiary, which includes the Vaccination Documentation Worksheet to record all vaccinations completed and whether any vaccinations are not medically appropriate and the Tuberculosis Worksheet. Waivers to vaccinations that are not medically appropriate are recorded by the panel physician in the right column of the Vaccination Documentation Worksheet. The beneficiary must submit the medical record completed by the panel physician to the Consular Officer during their interview.

*Exceptions:*

In general, Afghan parole beneficiaries who have not completed the required vaccinations (or provided documentation from the panel physician that the vaccinations are not medically appropriate) will not be issued a boarding foil to travel to the United States. However, there may be exceptional circumstances when a beneficiary is unable to complete the required medical screening and vaccinations, either due to the urgent need to travel or because panel physician services and vaccines are severely limited in the beneficiary's country of processing. Whenever possible, vaccinations should be completed prior to travel. If there is sufficient evidence in the record to support the parole beneficiary's need for urgent travel to the United States (i.e., within 90 days of approval of the parole request), USCIS may consider approving parole with the condition that the parolee must complete TB screening within 30 days of arrival in the United States.

Adjudicators, with the approval of their supervisor, may use their discretion to approve parole into the United States conditioned on the parolee obtaining the required vaccinations and/or TB screening within thirty days of arrival. Adjudicators will issue the beneficiary the Notice Regarding Conditions of Parole via email, if available, copying the petitioner and representative of record, and will also provide the Consular Section with a copy of the Notice Regarding Conditions of Parole to deliver to the beneficiary at the time of foil issuance. This notice outlines the medical requirements that must be completed upon arrival in the United States. The adjudicator must mark that parole was authorized with conditions and note the conditions to parole in the case management system.

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<sup>12</sup> The COVID vaccination requirement can be fulfilled with: 1) any of the COVID-19 vaccines with FDA approval or emergency use authorization: Janssen (J&J), Pfizer, or Moderna or 2) any of the COVID-19 vaccines listed for emergency use by the World Health Organization (WHO). See also: [Guidance for persons vaccinated outside US](#), [Technical Instructions for Panel Physician Exam: COVID 19](#), [What to do when COVID vaccine is not routinely available](#)



*Compliance with Conditions of Parole:*

If conditions are placed on parole, the parolee must verify that they have met the conditions of their parole by certifying their vaccination and TB screening status on the USCIS website within thirty days of arrival in the United States.<sup>13</sup> IRAD is working with the ELIS team to develop a case flag in ELIS that will notify adjudicators when a parole beneficiary has not reported compliance with the medical requirement conditions within 120 days of an approval of parole with conditions. When ELIS flags a case for non-compliance, an adjudicator must review CIS to determine whether the parole beneficiary entered the United States and the date of entry. If there were conditions placed on parole, it has been 45 days since the parolee entered the United States, and the beneficiary has not attested to completing the TB screening and required vaccinations, USCIS will send a warning letter to the beneficiary's last recorded address in AR-11. If the beneficiary fails to complete the vaccination and TB attestation within 120 days of arrival in the United States, USCIS will notify ICE to determine appropriate enforcement actions to promote compliance with the medical requirements. ICE will review each individual referral on a case-by-case basis. ICE or USCIS may amend the parole requirement to impose regular check-ins and technical monitoring or issue a Notice to Appear (NTA) as a means of revoking parole. USCIS may consider a new grant of parole, on a case-by-case basis, upon completion of medical requirements.

**Afghanistan Resources:**

For additional country conditions information for Afghanistan, please visit the [RAIO Research Unit's Afghanistan Resource Guide](#). For information concerning terrorism-related inadmissibility grounds (TRIG) and TRIG-related concerns in Afghanistan, which may be helpful when determining whether discretion should be exercised to authorize parole, please see the [RAIO TRIG Afghanistan Country Guide](#).

**Afghanistan Parole Notices:**

- **Conditional Approval Notice, Referral to Consular Processing:** HAB issues this notice to the Form I-131 petitioner, beneficiary, and representative of record when HAB determines that the beneficiary is eligible for parole and all USCIS-initiated security checks have been completed. The notice requires the beneficiary to complete the DS-160 to initiate Consular processing and to begin completing required vaccinations. For government requests for parole, HAB issues this notice to the referring agency.
- **Parole Notice (Suspension of Processing):** HAB issues this notice to the Form I-131 petitioner, beneficiary, and representative of record after an initial assessment that the beneficiary may be eligible for parole, but the beneficiary is in a location where there is no U.S. embassy or consulate (e.g., Afghanistan or Iran) or where the beneficiary is also the beneficiary of an approved I-130 or I-730 and HAB determined that parole processing should be halted in favor of immigrant visa processing. For government requests for parole, HAB issues this notice to the referring agency. This notice serves several purposes: 1) notification that the beneficiary must report to a U.S. embassy or consulate to continue processing the parole request; 2) where applicable, notification that the beneficiary should pursue immigrant visa processing and to notify HAB if this is not feasible.
- **Parole Authorization Memo:** HAB issues this memo to the Consular Section, copying the Consular Affairs parole points of contact, when a parole request has been conditionally

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<sup>13</sup> [Afghan Parolee Vaccination Status | USCIS](#)

approved. This memo serves to notify the Consular Section that USCIS has conditionally approved the parole request and any additional requirements for processing the parole request. If the parole beneficiary may be eligible for resettlement benefits, HAB should include a copy of the resettlement benefits fact sheet when the authorization memo is sent to post.

- **Notice Regarding Conditions for Parole:** HAB issues this notice to the Consular Section with the Authorization Memo so that the Consular Section can provide the notice to the beneficiary at the time of foil issuance. HAB may also issue the notice to the parole beneficiary via email, if email address is available, copying the petitioner and representative of record.
- **Parole Denial Notice:** HAB issues this notice to the Form I-131 petitioner, beneficiary, and representative of record when the request for parole is denied. For government requests for parole, HAB issues the denial notice to the referring agency.

# **Exhibit H**



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**Summary of Conclusions for IPC on Afghan Relocations: Charters**

Friday, October 15, 2021

4:00-5:20 PM

(U//FOUO) PARTICIPANTS:

Umid Khikmatov

NSC

**PLAINTIFF PII REDACTION**

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## Summary of Conclusions

(U//FOUO) It was discussed or agreed that:

- (U//FOUO) **Pre-August 31 Departures from Afghanistan:** The Department of State (State) briefed its proposal that all of the approximately 6,000 Afghans who departed Kabul on charter flights, as well as those Afghans who were directed by the U.S. Air Force onto allied military aircraft, be eligible for parole through Operation Allies

# Deliberative Process

- (U//FOUO) **Flyaway Teams:** DHS has outstanding questions they require answers to from State in order to proceed with planning for flyaway teams that would conduct biometric and biographic enrollment for vetting of the pre-August 31 population. DHS will provide a written list of these questions to State. **(Action: DHS to State by October 20, 2021; State to DHS by October 22)**
- (U//FOUO) **Travel Planning for Pre-August 31 Cohort:** State, DHS, and DOD will provide to NSC staff a plan for how Afghans being paroled through OAW will travel to the United States. **(Action: State, DHS, and DOD by October 22)**
- (U//FOUO) **Post-August 31 Departures from Afghanistan:** Departments and agencies shared views on the criteria proposed for which Afghans who depart after August 31, 2021 may be integrated into OAW. A white paper drafted by NSC staff, circulated on October 13, proposed the following:
  1. Immediate Family (otherwise eligible for an I-130) of U.S. Citizens and Lawful Permanent Residents;
  2. Locally Employed Staff (LES) and their immediate family (spouse and unmarried children under 21) [Note: LES are also eligible for SIV or P2 referral];
  3. SIV Applicants who have received Chief of Mission (COM) approval and immediate family included on their case;
  4. Immediate Family (spouse, unmarried children under 21, and, in the case of unaccompanied minors, parent or legal guardian) of Afghans previously relocated to the United States through OAW;
  5. Individuals referred to the USRAP through a P1 Embassy Referral or P2 group designation referral and in imminent risk of serious, targeted harm in the country

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outside Afghanistan where they are located. [Note: State/PRM Refugee Coordinators will apply pre-existing expedite criteria on a case-by-case basis to make this determination];

6. Individuals who directly apply for Humanitarian Parole using Form I-131 and are approved by DHS/USCIS.

Departments and agencies will provide any proposed amendments to these criteria in writing to **PLAINTIFF PII REDACTION** by October 19 and come prepared to discuss their proposals at the next Afghanistan Relocations DSG. **(Action: All, by October 19, 2021).**

- **(U//FOUO) I-131 Applications for Parole:** NSC staff will convene a small group meeting on the issue of direct applications (Form I-131) and government-referrals for humanitarian parole. **(Action: NSC Staff, week of October 17, 2021).**
- **(U//FOUO) Philadelphia Port of Entry Operations:** DHS briefed its plan to right-size OAW operations at the Philadelphia Port of Entry commensurate with the needs of incoming arrivals. Greater clarity is required on the anticipated pace of incoming arrivals, including from private charters departing Afghanistan and Afghans approved for onward travel from the processing site in Kosovo. State urged caution about dismantling OAW infrastructure prematurely while we are still endeavoring to relocate American Citizens, Lawful Permanent Residents, Special Immigrant Visa holders and applicants, and other Afghans at risk to whom we have a responsibility.



# **Exhibit I**



**Policy Branch**  
**International and Refugee Affairs Division**  
 Refugee, Asylum and International Operations  
 U.S. Citizenship and Immigration Services

Parole Requests for Afghan Nationals  
 Interim Policies and Procedures

**Date: November 5, 2021<sup>1</sup>**

**Background:**

On August 29, 2021, the Department of Homeland Security (DHS) became the lead agency implementing the ongoing U.S. Government efforts to support vulnerable Afghan nationals, including many who were evacuated with U.S. Government and private partner assistance from Afghanistan following the withdrawal of the U.S. military from Afghanistan. These coordinated efforts are known as Operation Allies Welcome (OAW) and include comprehensive screening and vetting and additional medical screening and vaccination of Afghan nationals paroled into the United States.

USCIS has developed vetting and medical-related requirements to apply Operation Allies Welcome policies to the adjudication of parole requests for Afghan nationals received through Form I-131 or U.S. government referrals that are under International and Refugee Affairs Division's (IRAD) jurisdiction.<sup>2</sup> This guidance outlines these policies and procedures, as well as eligibility considerations that are specific to parole of Afghan nationals, taking into account the evolving situation in Afghanistan, U.S. policy interests, and other protection mechanisms in place for vulnerable Afghan nationals.

**Eligibility:**

Adjudicators must follow the [HAB Procedures Manual](#) and the [Parole Training Module](#) when adjudicating parole requests for Afghan nationals. Although parole requests may be similar in nature, each application must be evaluated on its own merits taking into account all the factors unique to the specific parole request and considering the totality of the circumstances. Given the conditions specific to Afghanistan and the implementation of OAW, adjudicators must follow the additional guidance specific to parole requests for Afghan nationals outlined below.

<sup>1</sup> OCC/RALD and OP&S clearance received November 4, 2021

<sup>2</sup> Many Afghan nationals were transported to the United States by the USG and were paroled at the ports of entry by CBP. Afghan nationals who remain overseas are eligible to apply for humanitarian parole with USCIS by filing the Form I-131, Application for Travel Document. USCIS also receives requests for parole through executive agency referrals. Humanitarian parole requests are adjudicated by IRAD's Humanitarian Affairs Branch (HAB) and, if approved, the individual must visit a U.S. embassy or consulate to complete processing (including biometric security checks) and receive travel documents.

The interagency is prioritizing relocation to the United States of the following categories of Afghan nationals who have been able to leave Afghanistan:

- Immediate relatives of a U.S. Citizen (spouse, unmarried children under 21, and parents);
- Immediate relatives of a U.S. Lawful Permanent Resident (spouse and unmarried children under 21);
- Locally Employed Staff (LES)<sup>3</sup> of U.S. Embassy Kabul and their immediate family (spouse and unmarried children under 21);
- Special Immigrant Visa (SIV) applicants who have received Chief of Mission (COM) approval and immediate relatives (spouse and unmarried children under 21) included on their case;
- Immediate relatives of Afghan nationals previously relocated to the United States through OAW (spouse, unmarried children under 21, and, in the case of unaccompanied minors relocated as part of OAW, their primary caregiver, including but not limited to a parent or legal guardian, and the spouse and dependent children under 21 of the primary caregiver); and
- Individuals referred to the U.S. Refugee Admissions Program (USRAP) through a P1 embassy referral or P2 group designation referral **and in imminent risk of *refoulement* or serious, targeted harm** in the country outside Afghanistan where they are located.

Membership in one of these groups outlined above should be considered a strong positive factor when assessing urgent humanitarian reasons, significant public benefit, and the exercise of discretion.

Special Immigrant Visas (SIV): Special immigrant applicants who have received COM approval have provided the Department of State with evidence to show they have provided faithful and valuable service to the U.S. Government and have experienced an ongoing serious threat. COM approval is a strong positive factor when assessing significant public benefit and urgent humanitarian reasons. SIV applicants who have not received COM approval must provide third party, credible evidence of their work for the U.S. government (see below section on Evidence), as well as evidence of imminent, targeted severe harm or a particular vulnerability (such as a serious medical condition or a single female without support) to show why they are unable to wait to complete SIV or refugee processing. Adjudication officers can find evidence of COM approval by looking in CCD. Evidence of an approved I-360 petition in CLAIMS3 would also be a strong indicator that the individual has received COM approval.

Protection Claims and P1/P2 Refugee Referrals: Parole is not intended to replace refugee processing and, wherever possible, it is USG policy to process protection needs through the U.S. Refugee Admissions Program (USRAP). However, in some circumstances, the protection needs are so urgent that processing via the USRAP, which can take six months or more for an expedited case, is not a realistic option to accord needed protection. While each case is unique and parole determinations are made based on the totality of the circumstances, USCIS generally approves requests based on protection needs only if there is credible, third-party evidence naming the beneficiary that shows the beneficiary is targeted and at imminent risk of severe harm. The interagency has prioritized relocation efforts for those Afghan nationals who have been referred as P1 or P2 refugee referrals if they are in imminent risk of serious, targeted harm in the country outside of Afghanistan where they are located and processing through the USRAP is not an option. The Department of State is developing procedures so that a State Department Refugee Coordinator, working closely with the United Nations High Commissioner for

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<sup>3</sup> Locally Employed Staff are foreign nationals and other locally resident citizens who are legally eligible to work in the country and are employed by the U.S. embassy or consulate.



Refugees, can identify Afghan refugee applicants who are at such risk or have specific vulnerabilities such that expedited refugee processing will not meet the protection needs. In those situations, the Department of State will present a government referral to IRAD for consideration of parole.

While receiving these cases through the government referral process is the preferred approach, that does not preclude individuals from submitting requests for parole using Form I-131 based solely on protection needs. However, the evidentiary burden for those who are not P1/P2 referred applicants for whom PRM and/or UNHCR has confirmed is at imminent risk, will remain high.

#### *Beneficiaries still in Afghanistan*

Since the U.S. Embassy in Afghanistan has suspended operations, including all normal consular services, a beneficiary will be required to leave Afghanistan in order to complete processing of their parole request. If an adjudicator finds that a beneficiary residing in Afghanistan is initially found eligible for parole, the adjudicator may issue a Parole Notice (Suspension of Processing) stating that USCIS cannot complete processing of the parole request unless and until the beneficiary informs USCIS that they are able to report to a U.S. embassy or consulate. It may be difficult to assess eligibility based purely on protection needs while an individual is still in Afghanistan, as the adjudicator will not know when or how the beneficiary will leave Afghanistan, where the beneficiary will be once outside of Afghanistan, or the protection that may be available to the beneficiary in that location. Therefore, for Afghan nationals in Afghanistan, parole requests based on protection needs, without other factors, such as the beneficiary's falling into one of the categories of Afghan nationals prioritized by the interagency, family reunification, or urgent medical needs, generally will be denied. Such parole beneficiaries should be given denial notices informing them that 1) their parole applications cannot be approved at this time and that, should they get to a third country, they should contact the United Nations High Commissioner for Refugees (UNHCR) for protection and consideration of refugee resettlement in the United States through the U.S. Refugee Admissions Program; and 2) should they be at imminent risk of severe harm in that third country or forced return to Afghanistan, they should contact USCIS with information on whether they have contacted UNHCR for protection assistance and include any third-party credible evidence of their risk in that third country. USCIS will consider reopening the denied parole application (for no fee) within a year from the denial and may reconsider their request if sufficient additional new evidence is provided.

#### *Beneficiaries outside of Afghanistan*

Generally, beneficiaries in need of protection should be directed to contact UNHCR. UNHCR has more direct access to information about the beneficiary and conditions in the host country and can consult with the State Department Refugee Coordinator to assess urgency and the most appropriate protection path, including referral for parole, expedited refugee processing for resettlement in the United States, or resettlement in a third country. Parole is not intended to replace normal refugee processing channels and therefore discretion generally will be exercised to deny a request for parole based on a protection need in lieu of channeling vulnerable individuals through the normal protection channels. However, some vulnerable beneficiaries may be eligible for parole based on the specific circumstances of the beneficiary. When assessing parole eligibility, the adjudicator must review the Form I-131 application carefully for any other factors in addition to the protection request, such as family unity, specific vulnerability that may put the beneficiary at risk of imminent harm in the third country, the possibility of imminent refoulement to Afghanistan, and/or whether the beneficiary has access to UNHCR, depending on the location. The adjudicator should assess the totality of the circumstances to determine whether there are urgent humanitarian factors or significant public benefit reasons for parole and whether discretion should be exercised favorably. A combination of factors in addition to protection needs –

such as factors related to family unity or other close U.S. ties and specific vulnerability – should be considered favorably.

Beneficiaries of Form I-130 or Form I-730 Petitions:

While parole generally is not used to circumvent normal immigration processing channels, family reunification is a positive factor when assessing parole eligibility, particularly when combined with other factors related to vulnerability and when normal immigration processing channels are insufficient to address the need for parole. There often are significant public benefit reasons to promote family unity, particularly with respect to vulnerable family members (for example, when the separated vulnerable family member is outside the United States, or the beneficiary is needed to assist a vulnerable family member inside the United States). Family unity is also a positive factor in the exercise of discretion.

*Approved Form I-130 and Form I-730 Petitions*

A vulnerable Afghan national who is the beneficiary of an approved Form I-130 petition may be eligible for parole if there are no negative discretionary factors that outweigh the positive factors of risk and family reunification. Vulnerability may be based on age, status (e.g., single female, LBGTQI+ status, religious minority status), medical condition, association with the United States, etc. Adjudicators should review PCQS (CLAIMS 3 and ELIS2) and the A-file to confirm the status of any prior petitions filed for the beneficiary. Generally, parole is not to be used to circumvent normal visa processing.

If the beneficiary has an approved Form I-130 petition and a visa is immediately available (e.g., immediate relatives of U.S. Citizens) or the beneficiary's preference category is current<sup>4</sup>, the processing of the parole request should be suspended (marked closed in the case management system) and the beneficiary referred to immigrant visa processing through the Consular Section unless there are circumstances that indicate the visa process would be significantly delayed beyond the time the beneficiary could safely remain in the third country. IRAD HQ is in regular discussions with the Department of State Consular Affairs (DOS/CA) and will provide updated information about visa processing capacity at posts in the region. Adjudicators may also contact IRAD Policy for information when there are questions in this regard. If the beneficiary is in a particularly vulnerable situation, IRAD Policy can consult with DOS/CA to determine the most expeditious processing based on the specific post.

Similarly, if the Form I-131 beneficiary is also the beneficiary of an approved Form I-730 petition, the beneficiary should be directed to contact the U.S. Embassy or Consulate, or USCIS international office, where the beneficiary is located to transfer the Form I-730 petition for the travel eligibility determination and issuance of a travel document. If the travel document is issued, the beneficiary will be able to enter the United States as an asylee or refugee. Normally, the Department of State process for issuing a boarding foil for a Form I-730 beneficiary is very similar to the process for issuing a boarding foil for a parole beneficiary. IRAD HQ is in regular discussions with the Department of State Consular Affairs (DOS/CA) and will provide updated information about Form I-730 travel eligibility processing capacity at posts in the region. Adjudicators may also contact IRAD Policy for information when there are questions in this regard. If the beneficiary is in a particularly vulnerable situation, IRAD Policy can consult with DOS/CA to determine the most expeditious processing based on the specific post.

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<sup>4</sup> See the Department of State [Visa Bulletin](#) for preference categories and visa availability.

*Pending Form I-130 and Form I-730 Petitions*

When a petition is pending, adjudicators should review the evidence provided to determine whether the beneficiary is at risk of harm if they were to wait for adjudication of the underlying petition and immigrant visa processing or travel document processing (Form I-730), whether sufficient evidence has been provided to support the claimed relationship and risk of harm, and to consider positive and negative discretionary factors. Any harm to the petitioner based on delayed family unification should also be considered. Adjudicators may also reach out to IRAD Policy where there are pending family-based petitions, and IRAD Policy can flag the petition for expedited adjudication with the office that has jurisdiction.

*No Form I-130 and Form I-730 Petition Filed*

When no family-based petition has been filed, but the Form I-131 beneficiary could also be eligible as a beneficiary of a Form I-130 or I-730 Petition based on relationship to a USC, LPR, asylee, or refugee, adjudicators should review the evidence provided to determine whether the beneficiary is at risk of harm if they were to wait for the petition and adjudication process (even if expedited), whether sufficient evidence has been provided to support the claimed relationship and risk of harm, and consider positive and negative discretionary factors have been considered. Any harm to the petitioner based on delayed reunification should also be considered.

The Department of State also has authority to accept Form I-130 petitions filed for immediate relatives at consular posts abroad for expeditious processing in urgent circumstances. Adjudicators may reach out to IRAD Policy to explore whether IRAD HQ could assist in working with partners within USCIS and DOS/CA to expedite the adjudication process if a Form I-130 or I-730 petition were to be filed.

Minors:

Adjudicators should refer to the [HAB Procedures Manual](#) and the [Parole Training Module](#) for additional guidance on adjudicating parole cases for minor children. The Adjudication Programs Coordination Office has also developed the RAIO Afghan Children and Adoption-Related Considerations Primer with information specific to the Afghan population.

Separated Family Members:

During the evacuation of Afghan nationals prior to August 31, 2021, some family members were separated from each other, with certain family members paroled into the United States pursuant to Operation Allies Welcome, some remaining in Afghanistan, and others getting to third countries via other means. There are significant public benefit reasons related to family unity to reunite immediate family members with family members paroled into the United States pursuant to Operation Allies Welcome, which can help improve resettlement outcomes. Reflecting the significant public benefit of this type of family reunification, Congress has authorized resettlement assistance after September 30, 2022, for the spouse and children of Afghan nationals paroled into the United States between July 31,



2021, and September 30, 2022, if their parole has not been terminated, as well as the parent or legal guardian of an unaccompanied Afghan minor paroled into the United States during that period.<sup>5</sup>

There also may be urgent humanitarian reasons to use parole to unite Afghan family members separated during the evacuation efforts, depending on the circumstances of each case. Generally, parole may be appropriate to unite separated immediate family members, including spouses and unmarried children, with an individual who was paroled into the United States as part of Operation Allies Welcome. It may also be appropriate for more extended family members, such as parents, adult children, or siblings, depending on the circumstance of each case and taking into account any vulnerabilities and dependencies among the family members.

#### **Evidence:**

In order to determine whether the beneficiary is eligible for parole, the adjudicating officer should review and evaluate all of the evidence in the record. The adjudicator should refer to the [HAB Procedures Manual](#) and the [Parole Training Module](#) for guidance on assessing relevance and credibility of the evidence provided. Adjudicators should also refer to [8 CFR § 103.2\(b\)\(2\)](#) for regulations regarding the submission of secondary evidence when primary evidence is unavailable.

**Afghan Documents:** Identity and relationship documentation may be lacking in some Afghan parole requests given the circumstances of flight, for those outside of Afghanistan, and due to limitations on the availability of identity documents. For example, according to the September 22, 2021 [Afghan Document Guide](#) produced by the HSI Forensics Lab, citing a UNICEF report, birth certificates are not commonly used in Afghanistan and those that are issued often do not have the child's name. Adjudicators must become familiar with the Afghan Document Guide, which provides detailed information and exemplars of Afghan government documents prior to the recent take-over by the Taliban. Adjudicators are also encouraged to review the [Department of State Reciprocity and Civil-Documents Guide](#) section on Afghanistan. It notes that the main form of identity document used in Afghanistan is the *tazkera* and provides the following comments:

*Afghans usually apply for a tazkera when a child reaches school age, but it can also be obtained and/or modified throughout adulthood. The document traces its holder's roots through the father; mother's names are not usually listed on tazkeras. Tazkeras are hand-written, and there have been multiple variants of the document since 1976. U.S. Embassy Kabul requires all Afghan citizens who are applying for immigrant, special immigrant, or other such visas to submit a tazkera, as proof of identity and birth. Some Afghan citizens may also possess birth certificates issued by clinics or hospitals in Afghanistan, but these documents are not accepted for U.S. visa processing. U.S. Embassy Kabul requires that all tazkeras be accompanied by a certified English translation. The tazkera must first be authenticated by the Ministry of Interior before an English translation may be certified by the Ministry of Foreign Affairs.*

More information will be provided regarding passports and identity documents issued by the Taliban government once it is available.

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<sup>5</sup> See H.R. 5305, Section 2502

[https://www.govtrack.us/congress/bills/117/hr5305/text/enr#link=C\\_V\\_2502\\_a&nearest=H68BB5F7B78D94E92A179EDBCC860C09F](https://www.govtrack.us/congress/bills/117/hr5305/text/enr#link=C_V_2502_a&nearest=H68BB5F7B78D94E92A179EDBCC860C09F)

**Passports:** In general, a parole beneficiary must have a passport to travel. However, when the beneficiary is unable to obtain a passport prior to travel to the United States, the adjudicator must notify the Consular Section that the beneficiary does not have a passport in the authorization memo sent to Post. The Consular Section may issue the boarding foil on the Form DS-232.

**Verifying Work with the U.S. Government:** Copies of letters and certificates from U.S. government agencies or officials can be easily replicated and generally should not be considered strong evidence without credible third-party verification. The Department of Defense (DOD) may be able to verify employment with DOD contractors in certain circumstances. DOD can also verify whether they have referred an individual for P1 or P2 refugee processing, including both individuals who worked for DOD and some who worked for the former Afghan government or military.

IRAD HQ is working to obtain access to the list of P1 and P2 referrals of Afghan nationals to the USRAP. In the near-term, adjudicators can refer cases to IRAD Policy for verification of DOD records if the beneficiary is otherwise eligible for parole (e.g., there is an imminent risk of severe targeted harm, particular vulnerability, or other factors that preclude refugee resettlement or visa processing) and third-party evidence of the beneficiary's claimed work with the U.S. Government is the only outstanding issue. Adjudicators should also send requests for verification of employment by other U.S. Government employers to IRAD Policy, and IRAD Policy will work to establish a mechanism for verifying these requests.

#### **Sponsorship and Resettlement Benefits:**

The continuing resolution for Fiscal Year 2022 passed by Congress on September 30, 2021, provides certain Afghan nationals who were paroled into the United States between July 31, 2021, and September 30, 2022, access to resettlement assistance, entitlement programs, and other benefits normally provided to refugees, and provides similar assistance to certain other Afghan nationals paroled after September 30, 2022.<sup>6</sup> While sponsorship documents are still required for parole requests to ensure beneficiaries have appropriate reception and support while paroled, adjudicators should take into account the benefits provided to certain Afghan parole beneficiaries through the continuing resolution when determining whether the beneficiary will have sufficient support during the authorized parole period in the United States. Sponsorship documents may also provide additional evidence to show U.S. ties, which may be a positive factor when assessing eligibility for parole.

The Department of State has developed a fact sheet on obtaining resettlement benefits, which the Consular Section will provide to the Afghan parole beneficiary at the time of travel foil issuance. After a beneficiary is paroled into the United States, the parolee will need to approach a designated resettlement agency to identify themselves as eligible for these benefits. Although Afghan parolees are entitled to resettlement benefits, it may take several weeks or a month to schedule an appointment with a resettlement agency and begin receiving these benefits after arrival. It is important that Afghan parolees have the support of a sponsor during this period.

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<sup>6</sup> See H.R. 5305, Section 2502

[https://www.govtrack.us/congress/bills/117/hr5305/text/enr#link=C\\_V\\_2502\\_a&nearest=H68BB5F7B78D94E92A179EDBCC860C09F](https://www.govtrack.us/congress/bills/117/hr5305/text/enr#link=C_V_2502_a&nearest=H68BB5F7B78D94E92A179EDBCC860C09F)

**Vetting:**

# Law Enforcement Privilege

**Suspension of Processing Certain Cases:**

Parole beneficiaries must report to a U.S. embassy or consulate to complete processing of their parole request, including identity verification, biometrics collection, and receipt of vaccination records. Adjudicators should issue a Parole Notice (Suspension of Processing) if an Afghan beneficiary is initially found eligible for parole, but the beneficiary is residing in Afghanistan or another country without U.S. consular services. The Parole Notice (Suspension of Processing) states that USCIS cannot complete

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# Law Enforcement Privilege



processing of the parole request unless and until the beneficiary informs USCIS that they are able to report to a U.S. embassy or consulate.

Adjudicators may also issue the Parole Notice (Suspension of Processing) in cases where the beneficiary is initially found eligible for parole but has an approved Form I-730, I-360 (Petition for Amerasian, Widow(er), or Special Immigrant), or I-130 and an immigrant visa is available. The Parole Notice (Suspension of Processing) states that the beneficiary should pursue immigrant visa processing but may notify USCIS once outside of Afghanistan if immigrant visa processing is not a viable option.

The Parole Notice (Suspension of Processing) should only be issued for cases that are initially found eligible for parole **and all biographic vetting, including OAW NCTC vetting, is complete.** Once the Parole Notice (Suspension of Processing) has been issued, the adjudicator should administratively close the case in CAMINO or ELIS, purely for case tracking and workload management purposes. The parole application will remain open for at least a year.

If the petitioner or beneficiary notifies IRAD that the beneficiary is able to report to a U.S. embassy or consulate to continue processing of their case, the adjudicator should verify that the beneficiary is still eligible for parole and that all required USCIS-initiated<sup>10</sup> security checks are valid. For cases where the beneficiary has an approved immigrant petition and the visa is available, the adjudicator must assess whether a reasonable explanation has been provided for why the beneficiary cannot pursue immigrant visa processing, confirm all required USCIS-initiated security checks are valid, and verify that the beneficiary is still eligible for parole. If the adjudicator determines that the beneficiary is still eligible for parole, the adjudicator must re-open the parole request in CAMINO or ELIS and issue a Conditional Approval Notice. An Authorization Memo must also be sent to Post.

#### **Medical Requirements:**

For beneficiaries who are in a location where they can complete Consular processing, adjudicators will generate a Conditional Approval Notice: Referral to Consular Processing if the beneficiary is initially found eligible for parole and all USCIS-initiated vetting has been completed. The Conditional Approval Notice: Referral to Consular Processing notifies the petitioner and beneficiary of the additional steps required to complete processing of their case, including completion of the Form DS-160 and required medical screening and vaccinations through the panel physician. For urgent cases, USCIS or a government referring agency may request documentation of vaccinations through the panel physician before the adjudicator has made an initial decision on eligibility and may consider requiring medical screening for tuberculosis be completed within 30 days of arrival in the United States as a condition of parole. Adjudicators will also generate an authorization memo to Post notifying them of the conditional approval and medical requirements.

In line with current OAW requirements, Afghan parole beneficiaries will be required to complete the following medical screening and vaccinations<sup>11</sup> through a panel physician, unless an exception applies:

- MMR (measles, mumps, rubella) vaccine

<sup>10</sup> DOS/CA conducts additional biometric and biographic checks prior to issuance of a boarding foil.

<sup>11</sup><https://www.cdc.gov/immigrantrefugeehealth/panel-physicians/vaccinations.htm> CDC has additional vaccination age requirements for Afghan nationals: MMR is required for all Afghan nationals 6 months old until those born in or after 1957. Polio vaccination is required for all Afghan nationals 6 weeks or older.

- Polio vaccine
- COVID-19 vaccine (1 dose)<sup>12</sup>
- Other age-appropriate vaccinations, as determined by the panel physician based on guidance issued by the Centers for Disease Control and Prevention (CDC)
- Tuberculosis (TB) screening (the beneficiary is required to take appropriate isolation and treatment measures if the tuberculosis test is positive)

The panel physician will generally complete a Form DS-2054, Report of Medical Examination by Panel Physician, for each beneficiary, which includes the Vaccination Documentation Worksheet to record all vaccinations completed and whether any vaccinations are not medically appropriate and the Tuberculosis Worksheet. Waivers to vaccinations that are not medically appropriate are recorded by the panel physician in the right column of the Vaccination Documentation Worksheet. The beneficiary must submit the medical record completed by the panel physician to the Consular Officer during their interview.

*Exceptions:*

In general, Afghan parole beneficiaries who have not completed the required vaccinations (or provided documentation from the panel physician that the vaccinations are not medically appropriate) will not be issued a boarding foil to travel to the United States. However, there may be exceptional circumstances when a beneficiary is unable to complete the required medical screening and vaccinations, either due to the urgent need to travel or because panel physician services and vaccines are severely limited in the beneficiary's country of processing. Whenever possible, vaccinations should be completed prior to travel. If there is sufficient evidence in the record to support the parole beneficiary's need for urgent travel to the United States (i.e., within 90 days of approval of the parole request), USCIS may consider approving parole with the condition that the parolee must complete TB screening within 30 days of arrival in the United States.

Adjudicators, with the approval of their supervisor, may use their discretion to approve parole into the United States conditioned on the parolee obtaining the required vaccinations and/or TB screening within thirty days of arrival. Adjudicators will issue the beneficiary the Notice Regarding Conditions of Parole via email, if available, copying the petitioner and representative of record, and will also provide the Consular Section with a copy of the Notice Regarding Conditions of Parole to deliver to the beneficiary at the time of foil issuance. This notice outlines the medical requirements that must be completed upon arrival in the United States. The adjudicator must mark that parole was authorized with conditions and note the conditions to parole in the case management system.

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<sup>12</sup> The COVID vaccination requirement can be fulfilled with: 1) any of the COVID-19 vaccines with FDA approval or emergency use authorization: Janssen (J&J), Pfizer, or Moderna or 2) any of the COVID-19 vaccines listed for emergency use by the World Health Organization (WHO). See also: [Guidance for persons vaccinated outside US](#), [Technical Instructions for Panel Physician Exam: COVID 19](#), [What to do when COVID vaccine is not routinely available](#)



*Compliance with Conditions of Parole:*

If conditions are placed on parole, the parolee must verify that they have met the conditions of their parole by certifying their vaccination and TB screening status on the USCIS website within thirty days of arrival in the United States.<sup>13</sup> IRAD is working with the ELIS team to develop a case flag in ELIS that will notify adjudicators when a parole beneficiary has not reported compliance with the medical requirement conditions within 120 days of an approval of parole with conditions. When ELIS flags a case for non-compliance, an adjudicator must review CIS to determine whether the parole beneficiary entered the United States and the date of entry. If there were conditions placed on parole, it has been 45 days since the parolee entered the United States, and the beneficiary has not attested to completing the TB screening and required vaccinations, USCIS will send a warning letter to the beneficiary's last recorded address in AR-11. If the beneficiary fails to complete the vaccination and TB attestation within 120 days of arrival in the United States, USCIS will notify ICE to determine appropriate enforcement actions to promote compliance with the medical requirements. ICE will review each individual referral on a case-by-case basis. ICE or USCIS may amend the parole requirement to impose regular check-ins and technical monitoring or issue a Notice to Appear (NTA) as a means of revoking parole. USCIS may consider a new grant of parole, on a case-by-case basis, upon completion of medical requirements.

**Afghanistan Resources:**

For additional country conditions information for Afghanistan, please visit the [RAIO Research Unit's Afghanistan Resource Guide](#). For information concerning terrorism-related inadmissibility grounds (TRIG) and TRIG-related concerns in Afghanistan, which may be helpful when determining whether discretion should be exercised to authorize parole, please see the [RAIO TRIG Afghanistan Country Guide](#).

**Afghanistan Parole Notices:**

- **Conditional Approval Notice, Referral to Consular Processing:** HAB issues this notice to the Form I-131 petitioner, beneficiary, and representative of record when HAB determines that the beneficiary is eligible for parole and all USCIS-initiated security checks have been completed. The notice requires the beneficiary to complete the DS-160 to initiate Consular processing and to begin completing required vaccinations. For government requests for parole, HAB issues this notice to the referring agency.
- **Parole Notice (Suspension of Processing):** HAB issues this notice to the Form I-131 petitioner, beneficiary, and representative of record after an initial assessment that the beneficiary may be eligible for parole, but the beneficiary is in a location where there is no U.S. embassy or consulate (e.g., Afghanistan or Iran) or where the beneficiary is also the beneficiary of an approved I-130 or I-730 and HAB determined that parole processing should be halted in favor of immigrant visa processing. For government requests for parole, HAB issues this notice to the referring agency. This notice serves several purposes: 1) notification that the beneficiary must report to a U.S. embassy or consulate to continue processing the parole request; 2) where applicable, notification that the beneficiary should pursue immigrant visa processing and to notify HAB if this is not feasible.
- **Parole Authorization Memo:** HAB issues this memo to the Consular Section, copying the Consular Affairs parole points of contact, when a parole request has been conditionally

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<sup>13</sup> [Afghan Parolee Vaccination Status | USCIS](#)



approved. This memo serves to notify the Consular Section that USCIS has conditionally approved the parole request and any additional requirements for processing the parole request. If the parole beneficiary may be eligible for resettlement benefits, HAB should include a copy of the resettlement benefits fact sheet when the authorization memo is sent to post.

- **Notice Regarding Conditions for Parole:** HAB issues this notice to the Consular Section with the Authorization Memo so that the Consular Section can provide the notice to the beneficiary at the time of foil issuance. HAB may also issue the notice to the parole beneficiary via email, if email address is available, copying the petitioner and representative of record.
- **Parole Denial Notice:** HAB issues this notice to the Form I-131 petitioner, beneficiary, and representative of record when the request for parole is denied. For government requests for parole, HAB issues the denial notice to the referring agency.

# **Exhibit J**

**From:** Ruppel, Joanna <Joanna.Ruppel@uscis.dhs.gov>

# PLAINTIFF PII REDACTION

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All,

Had a good meeting with D1. Here is the upshot and next steps:

1. We can move forward to begin to deny cases for those who are ineligible, including the protection cases that do not meet our parole requirements who should seek protection through existing third country protection and refugee processing channels. We should be sure to include very specific language in our denial letters and about the possibility of contacting the UNHCR and contact info (if we have it for the country where the beneficiary is) or website link.
2. We should prioritize processing of beneficiaries outside of Afghanistan, but still process some inside Afghanistan. For example, we could assign 2/3 of the officers adjudicating Afghan cases to those outside of Afghanistan and 1/3 to those in Afghanistan, to the degree we know this information.
3. We should move forward with the formal clearance process for the analytic framework and guidance in the SOP and ensure we also are transparent with that on the website (e.g., the proposed language we have for the website). **Sarah – could you please work with RAIO-IRAD Clearance to clean up the latest version of SOP and updated web content and get in clearance for expedited review? We would need all comments by noon Thursday, I think. I recommend you send Chelsea Clough at DHS a bootleg so she can start reviewing.**

I asked for front office support in clearing our draft SOP and web content by Friday. After front office review, this likely will need to go to the Department. So it may not be final/final by the beginning of training.

Joanna

Joanna Ruppel

Chief, International and Refugee Affairs Division



USCIS Refugee, Asylum and International Operations Directorate

## PLAINTIFF PII REDACTION

# **Exhibit K**

**From:** Cooper, Judith A (Judy) (CTR)  
**To:** Rivers, Brian A (Ickis) (CTR); Matthews, Melissa D (CTR); Devlin, Alexis B  
**Cc:** Lassiter, Fiona K; Lariviere, Laroche N; Bird, John W (Wally)  
**Subject:** Afghan case tag  
**Date:** Tuesday, September 07, 2021 11:01:58 AM

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Hi, everyone.

Forgot to mention this during the meeting. Just so we are on the same page, had a discussion with Wally this morning:

**Deliberative Process privilege**

**Deliberative Process privilege**

This gives upper management a means to see how many cases are out there.

Thanks,  
Judy

**Judith Cooper**  
Document Technician  
**The Oryza Group, LLC**  
**DHS | USCIS | Refugee and International Operations**  
**Humanitarian Affairs Branch**  
999. N Capitol Street NE MS2295  
Washington, DC 20529-2295

**PLAINTIFF PII REDACTION**

*The Oryza Group, LLC*



**U.S. Citizenship  
and Immigration  
Services**



# **Exhibit L**

**From:** Cooper, Judith A (Judy) (CTR)  
**Subject:** Afghan case tag  
**To:** Rivers, Brian A (Ickis) (CTR); Matthews, Melissa D (CTR); Devlin, Alexis B  
**Cc:** Lassiter, Fiona K; Lariviere, Laroche N; Bird, John W (Wally)  
**Sent:** September 7, 2021 11:02 AM (UTC-05:00)

Hi, everyone.

Forgot to mention this during the meeting. Just so we are on the same page, had a discussion with Wally this morning and even though we are not expediting the Afghan cases right now, let's keep checking the Ex. Afghan case tag box during Camino entry. This gives upper management a means to see how many cases are out there.

Thanks,  
Judy

***Judith Cooper***  
Document Technician  
**The Oryza Group, LLC**  
**DHS | USCIS | Refugee and International Operations**  
**Humanitarian Affairs Branch**  
999. N Capitol Street NE MS2295  
Washington, DC 20529-2295

(b)(6)

*The Oryza Group, LLC*



**U.S. Citizenship  
and Immigration  
Services**