



U.S. Immigration
and Customs
Enforcement

News Release

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ICE issues new procedures for asylum seekers as part of ongoing detention reform initiatives

WASHINGTON—U.S. Immigration and Customs Enforcement (ICE) Assistant Secretary John Morton today announced that ICE will generally release from detention arriving asylum seekers who have a credible fear of persecution or torture if certain criteria are met—part of ICE’s ongoing immigration detention reform efforts.

“ICE is committed to detention reform that ensures criminal and violent aliens remain in custody while establishing effective alternatives for non-violent, non-criminal detainees commensurate with the risk they present,” said Assistant Secretary Morton. “These new parole procedures for asylum seekers will help ICE focus both on protecting against major threats to public safety and implementing common-sense detention policies.”

The revised guidelines announced today, effective Jan. 4, 2010, will permit parole from detention—which temporarily authorizes aliens to enter the United States without being formally admitted or granted immigration status—of aliens arriving at U.S. ports of entry who establish their identities, pose neither a flight risk nor a danger to the community, have a credible fear of persecution or torture, and have no additional factors that weigh against their release. The new guidelines also mandate that all such arriving aliens should automatically be considered for parole—a significant change from prior guidance that required aliens to request parole in writing.

In addition, the new policy adds heightened quality assurance safeguards, including monthly reporting by ICE field offices and headquarters analysis of parole rates and decision-making, as well as a review of compliance rates for paroled aliens.

U.S. immigration laws generally require aliens who arrive in the United States without valid entry documents to be immediately removed without further hearing; however, arriving aliens can pursue protection in the United States if they are first found by a U.S. Citizenship and Immigration Services (USCIS) asylum officer or an immigration judge to have a credible fear of persecution or torture in their home country.

When the policy becomes effective, USCIS asylum officers will explain the new process to arriving aliens who have been determined to have a credible fear of persecution or torture, including providing information regarding appropriate documentation the aliens may provide to help establish their eligibility for release.

On Aug. 6 and Oct. 6, Secretary Napolitano and Assistant Secretary Morton outlined the Department's overall approach to its ongoing immigration detention reform effort.

For more information, visit www.dhs.gov or www.ice.gov.

ICE

U.S. Immigration and Customs Enforcement (ICE) is the largest investigative arm of the Department of Homeland Security. ICE comprises four integrated divisions that form a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities. For more information, visit: www.ICE.gov. To report suspicious activity, call 1-866-347-2423.

Fact Sheet

December 16, 2009

Revised Parole Policy for Arriving Aliens with Credible Fear Claims

What are the main differences between the new and old policies?

Under the new policy, aliens who arrive in the United States at a port of entry and are found to have a credible fear of persecution or torture will automatically be considered by DRO for parole. This is a change from the prior policy, which required aliens to affirmatively request parole in writing. In addition, the new policy adds heightened quality assurance safeguards, including monthly reporting by ICE field offices and headquarters analysis of parole rates and decision-making, as well as a review of compliance rates for paroled aliens. Further, while the prior policy allowed ICE officers to grant parole based on a determination of the public interest, it did not define this concept. By contrast, the new directive explains that the public interest is served by paroling arriving aliens found to have a credible fear who establish their identities, pose neither a flight risk nor a danger to the community, and for whom no additional factors weigh against their release.

When will the policy take effect?

The policy becomes effective Jan. 4, 2010.

Who does the policy apply to?

The policy applies to aliens arriving at U.S. ports of entry who have been determined by a USCIS asylum officer or immigration judge, upon review, to have a credible fear of persecution or torture.

Will ICE consider applying the policy to other aliens? Why is it limited to arriving aliens found to have a credible fear?

We are continuing to review all detention policies and priorities. Currently, aliens other than arriving aliens may generally have their continued detention by ICE reviewed by immigration judges, the Board of Immigration Appeals, and the federal courts.

Did ICE coordinate this policy with other DHS components and external stakeholders?

ICE considered significant input from the NGO community, UNHCR, and members of Congress when revising its policy, and that input is reflected in the new guidelines. ICE has also coordinated extensively with the U.S. Citizenship and Immigration Services (USCIS) Asylum Division and Department of Homeland Security Leadership while developing the policy.

How will arriving aliens be notified of their parole option?

When the policy becomes effective, USCIS asylum officers will explain the new process to arriving aliens once determined to have a credible fear of persecution, including providing information regarding appropriate documentation the aliens may provide to help establish their eligibility for release.

What is parole?

Parole is an administrative measure used by DHS to temporarily authorize the release of an alien into the United States. Parole is not a lawful admission or a determination of an alien's admissibility, and can be conditioned upon such terms as the posting of a bond or other guarantee.

What is credible fear?

This is a term from section 235(b) of the Immigration and Nationality Act that refers to a threshold determination by a USCIS asylum officer or an immigration judge, upon review, that takes into account the credibility of the alien's statements regarding his or her fear of persecution or torture and other pertinent facts to determine whether there is a significant possibility that the alien could establish eligibility for asylum or other forms of humanitarian immigration protection.

U.S. Immigration and Customs Enforcement was established in March 2003 as the largest investigative arm of the Department of Homeland Security. ICE comprises four integrated divisions that form a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities.