

## **Practice Pointer: USCIS Processing of Humanitarian Parole Applications for Afghan Nationals<sup>1</sup>**

In the wake of the Taliban takeover of Afghanistan, there are estimated to be tens of thousands of people remaining in the country who are both at risk and have close ties to supporters in the United States. While the U.S. government had intended to coordinate referrals through the refugee resettlement process, events on the ground did not allow this, and it remains to be seen how the P-1 and P-2 referral frameworks will work. For now, practitioners may receive calls about individuals who face imminent harm, and fear waiting months or years in danger for the uncertain prospect of long-term resettlement in the United States.

In this extraordinary situation, humanitarian parole is often the only U.S. immigration option available. Most immigration practitioners have filed Humanitarian Parole applications rarely, if at all. This practice pointer summarizes what we know about parole, specifically based on what USCIS has recently stated about how it will adjudicate applications. In a typical year, USCIS receives approximately 2,000 humanitarian parole applications, of which approximately only 25 percent are approved. As of today, **there are over 30,000 applications pending, with just a handful of decisions made.** Members are reporting receiving humanitarian parole denials, many without requests for evidence, given the high standard USCIS imposes. AILA will continue to monitor adjudication trends carefully to look for trends and/or ideas for best practices.

### **What is humanitarian parole?**

Parole is a discretionary power created by statute at INA 212(D)(5)(A). Parole allows an individual, who may be inadmissible or otherwise ineligible for a visa, refugee, or other immigration status, to enter the United States for urgent humanitarian reasons or significant public benefit. Parole also allows an individual to apply for work authorization. Although a parolee is lawfully present in the United States for the period authorized, parole is by nature temporary, and does not confer immigration status in the United States. A [2008 DHS MOU](#), delegates USCIS with primary responsibility for individual humanitarian parole applications.

There are no limits on the use of parole, and practitioners report significant inconsistency in adjudications over the years. Two cases with the same fact pattern might have different decisions under different Administrations. The [USCIS website](#) and the [2017 International Operations Humanitarian Parole Training Manual](#) provide guidance on the types of parole requests that are typically made and evidence that may help establish eligibility. Parole is not intended to replace established channels of refugee processing.

***Common basis for parole applications, that may be relevant to Afghan applicants include:***

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<sup>1</sup> Special thanks to Dan Berger and Michael Turansick, members of AILA's Afghan Response Taskforce, for drafting this practice pointer.

- Reuniting with Family in the United States for Urgent Humanitarian Reasons, including age, disability, or living circumstances that demonstrate that the individual abroad is particularly vulnerable.
  - In such cases, the petitioner will need to provide evidence that demonstrates the:
    - Particular vulnerability of the family member; and
    - Reasons the vulnerability cannot be addressed in the country where the family member resides.
  - Examples of Relevant Evidence:
    - Evidence identifying and supporting the urgent humanitarian reasons for the request aside from the desire for family reunification.
    - If parole is based on the asserted vulnerability of the family member living abroad, the petitioner must submit:
      - Evidence supporting the existence of the vulnerability;
      - Statements or other documentation explaining the living conditions or circumstances of the family member; and
      - Information on other family members living in the same country or near the family member abroad.
    - Civil documents establishing relationships between the beneficiary and family members in the United States. (In the case of same-sex partners in countries that do not recognize such relationships, other evidence demonstrating the nature of the relationship, such as affidavits, copies of photographs, records of household members, etc.)
    - Any evidence regarding the beneficiary's ability to adjust status once in the United States or any plans of the beneficiary to depart the United States.
    - Where applicable, Form I-797 receipt notice or approval notice evidencing the filing of Forms I-130, I-129F, I-601, I-212 or other immigration benefit request.
    - Evidence of the immigration status of family members residing in the United States.
- Coming to the United States for Protection from Targeted or Individualized Harm
  - Note: This basis for humanitarian parole is the most difficult one to establish.
  - Relevant factors may include:
    - Particular vulnerabilities of the beneficiary as well as significant family or other ties to the United States; and
    - Whether the beneficiary has family members or same-sex partners who have been granted asylum or refugee status in the United States, but he or she cannot petition for the family member to join them.
  - Examples of Relevant Evidence:

- Documentation corroborating the claimed, specific risk of harm facing the individual. For example:
    - Reports or other documentation from a credible third-party source specifically naming the beneficiary and outlining the serious harm he or she faces and the imminence of this harm. Credible third-party sources may include:
      - A U.S. government agency;
      - A reputable human rights organization; or
      - A media source.
    - Evidence of a USCIS grant of a protection-based immigration benefit such as asylum, refugee or special immigrant status to an immediate family member or same-sex partner of the beneficiary, and the family member or partner:
      - Is ineligible for derivative status; or
      - The risk of serious harm is so imminent that he or she cannot wait for the processing of his or her derivative application.
    - Evidence of the severity and imminence of the harm the beneficiary fears.
    - Evidence of a beneficiary's particular vulnerabilities.
    - Evidence of the beneficiary's living conditions to ensure they avoid harm.
    - Evidence of the lack of accessibility to relief mechanisms or protection measures other than parole.
    - Evidence that relocation to another part of the beneficiary's home country or a neighboring country is not possible or would not prevent the harm the beneficiary fears.
    - Evidence that the need for parole would be temporary in nature, such as an ability to regularize immigration status.
- Coming to the United States Due to a Fear of Harm Due to Generalized Violence that Occurs During a Civil Conflict, based on ethnic, tribal, religious or political violence.
  - Note: This ground for parole eligibility is not listed in the guidance on the [USCIS website](#), but was included in the [2017 Humanitarian and Significant Public Benefit Parole Training Module](#). It is unclear whether USCIS still adheres to the guidance provided in this training module.
  - USCIS will consider the following factors under this ground:
    - Particular vulnerability of the beneficiary (for example, female heads of household, single females, elderly individuals, unaccompanied children, individuals with physical or mental disabilities or those with particularly

- serious medical conditions and who have no parent or guardian to care for them, or other marginalized groups.)
- Living Conditions and Accessibility of Existing Relief Mechanisms
  - Can the beneficiary reasonably access relief efforts to meet the individuals' basic needs?
  - Does the individual have access to international relief through UNHCR or U.S. Refugee Admissions Program (USRAP)
- Ability to Relocate
  - Can the individual safely relocate to another part of his or her country?
- Examples of Relevant Evidence:
  - Country Conditions Information
  - Evidence of particular vulnerability, such as letters from established NGOs or aid organizations on the ground, medical records, a national identity card identifying a particular vulnerability (disability, etc.), photographs, or a doctor's note from an aid organization.

USCIS [notes](#) that it will consider the following characteristics of a parole beneficiary as strong positive factors for granting parole:

- Immediate family of a U.S. Citizen (spouse, unmarried children under 21, and parents);
- Immediate family of a U.S. Lawful Permanent Resident (spouse and unmarried children under 21);
- Locally Employed Staff of Embassy Kabul and their immediate family (spouse and unmarried children under 21);
- Special Immigrant Visa (SIV) applicants whose applications have received Chief of Mission approval and immediate family members 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, 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 (return) or serious, targeted harm in the country outside Afghanistan where they are located.

For more information on factors that USCIS will consider, please see Appendix A. In addition, see the [excellent advisory from CLINIC](#) (updated August 2021), Section 62.04 of the Immigration Law & Procedure treatise and Chapter 5 of ILRC's [Parole in Immigration Law](#).<sup>2</sup>

It is important to note that USCIS has historically approved a limited number of humanitarian parole applications annually. The treatise reports a 24% grant rate for parole from 2001-2007, and notes from the [AILA-USCIS International Operations Liaison Meeting from 2014 \(AILA Doc. No. 15020563\)](#) shows 30% grant rate for 2014.

### **What specific practice pointers are there for Form I-131, Application for Travel Document?<sup>3</sup>**

1. There are reports of rejections in the mailroom for leaving the requestor's date of birth blank in Part I, Question 8, or for not including a physical address for the beneficiary in Part 2. Simply putting "in hiding" or "no fixed address" has not worked. For now, we recommend putting something that looks like an address - a neighborhood for example, or a last known address. USCIS is prioritizing cases for people outside of Afghanistan, so the country of physical residence is relevant.
2. The Form G-28 is for the requestor on the Form I-131, not the beneficiary or the Form I-134 sponsor. You can prepare one Form G-28 with a wet signature and make copies to include with each Form I-131.
3. For the filing fee of \$575, USCIS is requiring a separate fee for each person which is a significant expense for a large family. It is possible to include a Form I-912 request for fee waiver, and it is important to note that the fee waiver is based on the financial situation of the Form I-131 requestor not the beneficiary. As such, a case sponsored by a college president will probably not get a fee waiver, although a case filed by an Afghan refugee for relatives may be successful. Practitioners should be aware that submission of Form I-912 can lead to delays and rejections, although we do not have enough experience to provide specific advice. If money for filing fees cannot be raised, one option is to pay the \$575 filing fee for the principal family member and then submit fee waivers for the dependents.
4. The requestor in Part I of Form I-131 can be anyone. Often it is a family member, friend, or colleague in the United States. Because humanitarian parole is discretionary, some applications

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<sup>2</sup> See also this discussion of the potential use of parole for DACA-eligible students.

<https://www.law.uh.edu/ihelg/documents/ExecutiveAuthorityForDREAMRelief28May2012withSignatures.pdf>.

<sup>3</sup> USCIS has provided a filing checklist and filing tips for the Form I-131 and Form I-912, which is available here: <https://www.uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-humanitarian-parole>.

have been filed by a person with some stature, such as the President of a well-known college or university. It is unclear whether this helps, but it cannot hurt.

5. In Part 2 of Form I-131, the application type is 1.f, applying for parole for a person outside the United States. Note that at the bottom of Page 2, the form says skip to Part 7. The Form I-131 is a multi-purpose form for all types of travel documents, so Page 3 and the top of Page 4 (Part 6) are not relevant to humanitarian parole and can be left blank.

6. For Part 3 of Form I-131, our best advice at this point is to put ASAP for intended date of departure (or a date in the near future), and two years for the requested length of parole. In the past, parole was usually granted in one-year intervals, but most Afghan evacuees have received two years.

7. For Part 7 of Form I-131, the consulate where the beneficiary intends to process is often a best guess. Parole is communicated to the consulate electronically, so we expect that the steps after a parole approval (DS-160 processing, medical check, interview and security check) can all be moved to another consulate if needed. Many Afghan clients are on the move. For those already in a third country, list the U.S. consulate there.

8. It is not clear whether applications can be bundled for a family group. With other immigration applications, such as Forms I-485, they can be filed together with one Form I-864. For now, since humanitarian parole adjudication is individualized, we recommend filing a separate package for each person (Forms I-131, I-134 or copy of principal's I-134, G-28 for requestor, photo ID such as national ID card or passport, and supporting evidence for I-131 and I-134). Then, put all the packages together (with a large rubber band or other fastener) and file in one envelope.

9. It is also not clear what level of family relationship is given significant weight. For example, what if a parent is truly at risk (e.g., parent was a judge who sentenced Taliban fighters under the previous Afghan government)? Can Forms I-131 for a spouse and child be successful on that basis without additional evidence? What about the circumstances of extended family? We have often heard statements such as "I won't leave without my sister, mother and grandmother." We recommend trying Forms I-131 for each person, and if possible, obtaining a letter from a reputable and knowledgeable source confirming that each named member of the extended family is at risk of imminent harm because of the actions of the principal.

10. For evidence, the package does not need to be voluminous, but it should be clear and directly relevant to the applicant's situation. See Appendix A which lists specific suggestions from USCIS (from a recent denial letter and from the USCIS website).

The key is showing the probability of imminent harm to the applicant. For many people in Afghanistan this is often relatively straightforward as religious or ethnic minorities, females, or those who have been involved directly or indirectly with the US or previous Afghan government are clearly at risk. It is important that the evidence focus on the individual. For example, evidence of having worked directly for a U.S. contractor. A letter from someone (such as an NGO or colleague) with actual knowledge of the situation specifically naming the beneficiary, if possible, is strongly recommended as suggested in the USCIS webpage guidance.

Most of these cases are not very complicated fact patterns. In the past, we have heard informally that an humanitarian parole cover letter or support letter can be one page as long as it tells the story thoroughly. It should explain who the person is, why that person is at risk, provide examples of any previous harm or threats (house to house search, family member beaten, etc.), and explain the individual's plan to obtain more permanent legal status (usually to complete an IV process or apply for asylum in the United States).

Some examples of the types of evidence have been submitted include threat letters submitted with SIV applications; actual written threats from Taliban; and/or letters from those in the U.S. at a university, NGO, etc., explaining the actual imminent harm. If the person has escaped to a third country, it is necessary to explain their visa status and if on a temporary visa, the limitations and likelihood of extending. In addition, NGOs operating in Pakistan may be able to provide a letter about the precarious nature of the situation there, especially for ethnic minorities. Any member of Congress can ask the Library of Congress to research an issue, so it may also be possible to get an updated report on the risk to an individual media or political contacts may also be helpful.

Although not listed by USCIS, showing the person is a priority of the U.S. government should be a positive factor, particularly when combined with evidence that waiting for resettlement is not safe, such as having won the DV lottery but lost out because of the Muslim Ban, being far along in the IV or SIV process, or meeting the criteria (and even being referred) to the P-1 or P-2 designation lists.

At a webinar recently, USCIS noted that certain fact patterns are given positive weight, such as a "vulnerability" including a significant medical condition or identifying as LGBTQ. Another positive factor is having been a caretaker of someone with a vulnerability, such as a young child evacuated to the United States.

### **What does it mean to have no other immigration options?**

Parole is the remedy of last resort. Many schools and organizations are offering scholarships or positions to Afghans. Forms I-20s for F-1/F-2 status or DS-2019s for J-1/J-2 status have been issued. However, given COVID backlogs and limited services at U.S. consulates abroad, it has

been difficult for Afghans to obtain visa appointments. An important question to consider is whether someone with, for example, a DS-2019 issued but who can't get a visa appointment, eligible for parole? Practitioners may argue that the answer is yes, although it is prudent to address any short or long term immigration options available to the applicant in the parole filing, and explain why those options are unfeasible or unavailable. For the F and J visa scenarios in particular, providing evidence of efforts to book appointments at different consulates, or requests for expedited appointments and/or congressional efforts to get an appointment can be extremely helpful.<sup>4</sup>

A similar analysis should be used for those with long term U.S. immigration options, such as SIV applicants or Afghans with family-based immigrant visas pending. The key is to explain where the applicant is in the process, and the potential harm that could come from waiting to see the green card through to completion abroad.

### **What to do after the Form I-131 is filed?**

There are two receipts issued. The first is from the Lockbox where the filing fee check is deposited. This receipt will have the requestor's name on each family member's receipt making it impossible to identify which receipt is for a specific person. Some weeks later, a second set of receipts will be issued directly from the Humanitarian Parole (HP) Branch in Washington that shows the case has been entered into that office's system. USCIS has historically received under 2,000 humanitarian parole applications per year and is unable to process the current surge of applications timely. is experimenting with ELIS as a platform for processing Afghan humanitarian parole requests.

As a result, it is difficult to predict processing times. There has always been a fundamental disconnect between the lengthy processing times for humanitarian parole applications and the urgency of the situations involved. Nearly every Afghan case is marked "urgent" or "expedite," and the U.S. government has its hands full with the nearly 100,000 evacuees. In the past, USCIS has adhered to a 90-day goal for initial review, however, it seems more likely that Afghan cases will take 4-6 months for USCIS adjudication and, if approved, at least another 1-2 months more for processing at a U.S. consulate.

Although immigration practitioners generally do not have the expertise to advise on relocation either within Afghanistan or to a third country, we can advise our clients that we do not know how

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<sup>4</sup> Note that F and J visas require temporary intent under INA 214b. Recently, a trickle of Fs and Js have been approved for Afghans, after months of denials for the few who obtained visa appointments. [Higher education organizations have advocated for a reasoned approach to INA 214b](#). See also <https://discuss.ilw.com/articles/articles/396934-article-a-proposal-to-bring-back-reasonableness-resurrect-the-rice-cable-on-students-and-temporary-intent-and-expand-it-to-j-1-exchange-visitors-by-dan-berger-stephen-yale-loehr-emily-hindle-and-hun-lee>.

long humanitarian parole applications will take to be adjudicated or what the outcome will be, and that all options should therefore be considered.

Humanitarian parole applications for people still in Afghanistan will be issued a conditional approval, with final processing delayed until after they are in a country with a functioning U.S. consulate. Despite USCIS advising applicants not to leave Afghanistan until they receive provisional approval, this policy is likely to encourage people to leave Afghanistan to a country where their status may be precarious or time limited.

Updates, including notification that the beneficiary has left Afghanistan, can be sent to <mailto:humanitarianparole@uscis.dhs.gov> after the HP Branch receipt is issued.

### **What can I do if Humanitarian Parole is delayed or denied?**

As of late November 2021, USCIS has denied a few humanitarian parole applications without first issuing an RFE. In the past, USCIS has issued RFEs on some humanitarian parole requests. In the past, practitioners have also requested USCIS provide specific reasons for a denial and so that they could respond specifically.

At the aforementioned webinar a few weeks ago, USCIS explained that decisions could be reconsidered upon filing a Form I-290B Motion for Reconsideration, with the required fee. This is a frustrating policy decision, as many requests for parole were filed *pro se* or by volunteer pro bono attorneys who were not immigration specialists. The applicants may have strong cases that were not presented in a way that would directly lead to an approval. USCIS by [its own policy](#) can and does issue RFEs for missing initial evidence or to clarify eligibility for an immigration benefit. After paying \$575 per person for the Form I-131, the Form I-290B filing fee is an unanticipated extra expense for individuals who may generally lack sufficient financial resources. However, recent denial notices have also noted that if the beneficiary is at risk of severe harm in a third country or at risk of a forced return to Afghanistan and the individual has contacted UNHCR for protection, then “USCIS will consider reopening the denial for no fee and reconsidering the parole request if sufficient new evidence is provided within one year from the date of this denial letter.” Some other recent denials have not had that language, and have simply advised that an I-290B Motion to Reopen or Reconsider (with fee) is available.

The speed and approval rate for Afghan humanitarian parole cases will depend on several administrative, legal and political factors, as nearly 100,000 Afghans have been paroled into the United States already. Practitioners may consider using media or political contacts, mandamus for delayed cases or Administrative Procedures Act (APA) challenges for denials issued without an RFE.

## **What specific practice pointers are there for filling out the Form I-134?**

Although some Afghan parolees may be eligible for refugee benefits, it is best to show a plan for supporting the person in the United States without the use of government benefits.<sup>5</sup> The Form I-134 Affidavit of Support is a financial sponsorship form, and the signer can be the same person who requested parole on Form I-131 or a different person. For more information on the responsibilities of a financial sponsor for parole, see this [webinar](#) by the Chicago Bar Association and other law groups and this [plain English summary](#). The Form I-134 should include photo ID and proof of status in the United States for the sponsor, along with most recent federal tax return with W-2s and/or 1099s, and recent paystubs at a minimum. Any other evidence, such as assets, job confirmation letters, etc., can only help. Generally, the sponsor should be a U.S. permanent resident, asylee, refugee or U.S. citizen.

It is generally accepted that despite the strong language on the form, the Form I-134 is not a binding contract like its successor, the Form I-864. If the sponsor's income is relatively high, it is not necessary to include evidence of assets. The Form I-134 can be used for a nuclear family (including spouse and minor children) with copies to attached to each Form I-131.

If possible, including a general support letter from any organization that may play a role in supporting the parolee is recommended, such as refugee resettlement agency, college, religious organization, etc. For larger families, it may be advisable to find multiple financial sponsors for large families, with each sponsor potentially covering one separate nuclear family.

## **Can USCIS create a categorical parole program?**

By law, review of parole applications should be done on an individualized basis. However, USCIS can, and has, articulated factors to be considered in determining whether particular groups may qualify for a grant of parole. Examples include the International Entrepreneur Parole regulation (IER), the U visa derivative parole, and the Cuban and Haitian parole guidelines. These parole programs allow individuals entry to the United States typically several years prior to the availability of a visa number with the idea that they will ultimately adjust status in the United States. Despite the ample precedent, USCIS apparently has no plans to create such a categorical parole program for Afghans.

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<sup>5</sup> Congress has authorized resettlement benefits for Afghan nationals paroled into the United States between July 31, 2021 - Sept. 30, 2022, and for certain family members paroled after Sept. 30, 2022. Therefore, financial support offered on the I-134 can reflect availability of those benefits (and the I-134 sponsor is most important to support the beneficiary immediately on arrival in the United States until refugee benefits can be coordinated with a resettlement agency).

## **Can someone who qualifies as a refugee be granted parole?**

The short answer is “Yes” if “compelling reasons in the public interest” with respect to that foreign national “require” parole as opposed to refugee admission.

The tension between the Executive Branch and Congress over the use of parole in relation to the refugee admissions system has existed for many years. Prior to the Immigration Act of 1965, refugee numbers were based on national origin quotas. From then until 1980, Congress debated the role of parole while Administrations used parole to react quickly to crises abroad, inviting groups of Hungarians, Soviet Jews, etc. Voices on both sides of the aisle recognized the need for a separate refugee and parole admission process.<sup>6</sup>

The blanket use of parole for over 100,000 Indochinese refugees in the 1970’s finally led to the Ford Administration to develop a better solution. In 1980, Congress passed the Refugee Act, which significantly limited the unfettered use of parole.<sup>7</sup> Congress refused to support continued large-scale parole programs that had no oversight and were not integrated with overall policy goals, while keeping parole as an option for specific urgent situations. The Central American Minors program created in the Obama era adopted that mix - and evaluates children for refugee processing, while considering parole for those who do not qualify as refugees.

The Afghanistan situation is the first large-scale test of the interrelation of parole and refugee processing since the Refugee Act of 1980. To comply with the Act, grants of parole to potential refugees must continue to be based on “compelling reasons in the public interest”, which, in the Afghan context, could include supporting human rights and education for women and girls, avoiding repatriation of those with precarious status in a third country, and providing protection for those who supported US interests (NGO or governmental).

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<sup>6</sup> Republican Senator Strom Thurmond noted in 1965 that despite a House report attempting to limit parole for large groups of refugees, “I would expect this general rule of thumb not forego in all cases the use of [parole] for the conditional entry of refugees if such were deemed in the national interest.” In 1973, Congressman Peter Rodino commented that the combination of parole and the refugee program provides “maximum flexibility in the pursuit of humanitarian and foreign policy objectives. The United States would be better able to cope with any arising emergency or refugee problem in a manner consistent with broader objectives.” HR 3056 (1977), a precursor to the Refugee Act, strictly barred granting parole for a refugee, but recognized the need for flexibility and created two emergency refugee authorities modeled after previous parole programs. Executive branch witnesses opposed this, stressing the need to react to situations, especially for people outside their country but at risk of repatriation. The eventual compromise kept parole authority but limited it in the case of refugees to “compelling reasons in the public interest.”

<sup>7</sup> See generally this [detailed account](#) of the history of the Refugee Act, and the relative role of the parole and refugee programs.

For more information on the impact of applying for parole from a third country where one could be considered a refugee, please read [AILA's Practice Pointer on Humanitarian Parole for Afghans in Third Countries](#).

**Is there a limitation to an executive branch employee's ability to request parole of DHS per 9 FAM 202.3-3(B)?**

The power to request parole is discretionary and recognizes the particular expertise of Executive Branch officials. For example, the Department of Defense has recommended parole to USCIS while the State Department has chosen to limit its criteria for recommending parole to extreme situations of “imminent harm.” 9 FAM 202.3-3(B)(2)(b)(2).

Based on the FAM, a consular officer or DHS officer abroad could evaluate the credibility or identity of an individual and recommend parole. Alternatively, another U.S. government agency such as, the Department of Education could recommend parole for a faculty member at an Afghan university. Given that parole applications filed by individuals with USCIS are evaluated solely on the application and supporting evidence presented, there is a likely benefit to having another Executive Branch official make a parole recommendation. If a practitioner has a client with high level contacts or support, it may be worthwhile to identify an Executive Branch official who can recommend parole although, to our knowledge, parole recommendations by other agencies are rare and have yet to be used for Afghan cases. USCIS noted that the HP Branch has dedicated adjudicators who handle parole requests made by other government agencies.

**Have previous parole programs been handled by the Humanitarian Parole Branch, or is there another model for administering a larger scale parole program?**

Previous parole programs have not always been managed by the Humanitarian Parole Branch at USCIS, which is a relatively new and small operation. The Central American Minors program was administered by Refugee Affairs, and the IER is processed at the Immigrant Investor Program Office. CNMI and Military Parole in Place are handled by USCIS Service Centers in conjunction with local district USCIS offices. Applications for the Haitian Family Reunification Parole Program are adjudicated by the Service Centers following an invitation by the National Visa Center to apply for the program. USCIS is currently staffing up its undersized Humanitarian Parole Branch, but it is expected that it will take quite a while to work through tens of thousands of applications currently pending.

## **How can port parole through CBP be a tool?**

CBP also has the authority to grant parole at a port of entry. This was the most common means of entry for Afghans evacuated by the U.S. during Operation Allies Welcome. Although parole is granted once an individual has arrived in the U.S., it is not considered an “admission” for immigration purposes. There are only certain categories for which CBP must refer an individual for asylum screening (referred to as a “credible fear interview”).<sup>8</sup> Hypothetically, Afghans could be interviewed, screened and granted parole at pre-flight inspection where that exists, but to our knowledge that has yet to occur. However, if your clients can get to a CBP office with pre-flight inspection capability or to a U.S. land border, it may be worth requesting parole directly.

## **Appendix A**

### **Factors used by USCIS to evaluate humanitarian parole applications**

#### **From November 2021 Parole Denial Notice:**

- When determining whether parole is appropriate, USCIS considers:
  - o 1. Whether the beneficiary may have access to protection in a host country; and
  - o 2. Whether the beneficiary may have access to consideration for resettlement through USRAP.
- USCIS only offers parole based on protection needs only when USCIS finds that the beneficiary is at risk of severe targeted or individualized harm in the country where the beneficiary is located or at risk of imminent return to a country where the beneficiary would be harmed. Evidence to establish this could b:
  - o 1. Documentation from credible third-party source, specifically naming the beneficiary and outlining the serious harm the beneficiary faces, and the imminence of harm in the location where beneficiary is located; Or
  - o 2. Evidence of a USCIS grant of a protection-based immigration benefit such as asylum, refugee, or special immigrant status to an immediate family member or same-sex partner of the beneficiary, or the family member is ineligible for derivative status or the risk of serious harm is so imminent that the family member cannot wait for refugee or visa processing; OR
  - o 3. Evidence of the beneficiary’s particular vulnerabilities.
  - o 4. Evidence of the severity and imminence of the harm the beneficiary fears.

#### **From uscis.gov as of November 18, 2021 -**

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<sup>8</sup> INA 212(a)(6) and 212(a)(7).

[https://www.uscis.gov/humanitarian/humanitarian-parole/guidance-on-evidence-for-certain-types-of-humanitarian-or-significant-public-benefit-parole-requests:](https://www.uscis.gov/humanitarian/humanitarian-parole/guidance-on-evidence-for-certain-types-of-humanitarian-or-significant-public-benefit-parole-requests)

- Parole will be authorized only if we (USCIS) conclude, based on all the evidence the petitioner submits and any other relevant evidence available to us, that
  - o There are urgent humanitarian or significant public benefit reasons for the beneficiary to be in the United States; and
  - o The beneficiary merits a favorable exercise of discretion.
- There is no statutory or regulatory definition of "urgent humanitarian reasons." USCIS officers look at all of the circumstances, taking into account factors such as (but not limited to):
  - o Whether or not the circumstances are pressing;
  - o The effect of the circumstances on the individual's welfare and well being; and
  - o The degree of suffering that may result if parole is not authorized.
- Some common discretionary factors that we (USCIS) evaluate include (but are not limited to):
  - o Whether the purpose of the parole request may be accomplished within a specific, temporary period of time;
  - o Whether the beneficiary intends to leave the United States once their parole expires or has means to obtain lawful immigration status during the parole authorization period or any re-parole period that is envisioned (where applicable);
  - o Whether there is evidence of any national security concerns;
  - o Whether there is evidence of any criminal history or previous immigration violations;
  - o Whether there is evidence of any previous participation in fraud;
  - o Whether the beneficiary's presence would benefit a U.S. citizen or lawful permanent resident or community in the United States;
  - o Whether the beneficiary will have sufficient financial support while in the United States;
  - o Evidence of the beneficiary's character;
  - o The effect of the beneficiary's presence on a community in the United States; and
  - o Whether there are other means, other than parole, that are available to the beneficiary so they can travel to and remain in the United States for the stated parole purpose, such as the ability or inability to obtain a visa.
- Parole Process:
  - o The petitioner must show, through the parole request and supporting evidence, that the beneficiary qualifies for parole and merits a favorable exercise of discretion. Submitting all relevant supporting evidence will avoid delays. A

USCIS officer may issue a Request for Evidence (RFE) to seek additional information. In addition to the Form I-131, Application for Travel Document, Form I-134, Affidavit of Support (PDF, 463.53 KB), and the filing fee or request for fee waiver, the petitioner should submit the following evidence to support their parole request:

- Detailed explanation of the reasons why the petitioner is requesting parole;
- Detailed explanation of the length of time for which the beneficiary needs parole;
- Detailed explanation of why the beneficiary cannot obtain a U.S. nonimmigrant or immigrant visa from the U.S. Department of State including:
  - When and where the beneficiary attempted to obtain visas, if applicable;
  - If a visa application was denied, include a copy of the denial letter; and
  - If applicable, a detailed explanation of the reasons why the beneficiary cannot obtain any required waiver of inadmissibility and a copy of any denial letter received.
- Copies of any previously filed immigrant petitions (Forms I-130, I-140, I-360, etc.) or nonimmigrant petitions filed by or for the beneficiary, if available;
- Copies of any documents that support the request, including a clear and legible copy of a government-issued identification that indicates the beneficiary's citizenship.
  - If a birth certificate is provided, please submit a copy of the front and back of the original birth certificate.
- Copies of a U.S. passport, lawful permanent resident card, birth certificate or other evidence of valid U.S. immigration status or citizenship for the petitioner and sponsor, where applicable.