

# BORDER SOLUTIONS



AMERICAN IMMIGRATION LAWYERS ASSOCIATION

## Policy Brief: Why Limiting or Removing Parole Is Disastrous for Border Management

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Legislating away or limiting the authority to grant parole would needlessly strain the United States' resources at the southern border and undermine efforts to manage it. Furthermore, ending a provision that has been an important and vital tool of U.S. immigration law for over a century<sup>1</sup> will hobble all future administrations in the face of unprecedented and unforeseen worldwide changes in migration patterns.

### Parole is an effective border management tool.

- **Parole allows an administration to respond nimbly to changing humanitarian crises** regardless of who is in leadership or which party controls Congress.
  - On inauguration day, no one predicted that within a year, we would see [thousands of Ukrainians](#) at the U.S./Mexico border. Yet, when it happened, the US responded to the need and demonstrated its values to the world.
  - Programs like Cubans, Haitians, Nicaraguans and Venezuelans (CHNV) allow for lawful entry that does not add to the significant visa backlogs facing the State Department.. Otherwise, these migrants would arrive at the southern border, [as detailed in AILA's recent report](#).
- **Parole programs alleviate pressure at the southern border. Limiting parole authority would have the opposite effect.** Individuals entering via parole programs are vetted for national security and criminal history prior to arrival. This, in turn, alleviates pressure on our ports of entry and Border Patrol agents, who would otherwise do the vetting. It also reduces reliance on our asylum system to seek safety because parole allows someone to temporarily enter the US for humanitarian and/or public interest reasons.
  - After the creation of Uniting for Ukraine, arrivals of Ukrainians at the southern border fell 99.9 percent from April 2022 to June 2023. According to [data analyzed by CATO](#), this “decline occurred mainly in the same month Uniting for Ukraine was implemented (May 2022).”
  - Similarly, when the CHNV process was created, **illegal entries from these countries fell across the board.** [CATO observes](#) that “[b]ecause arrivals have remained far lower than before . . . [CHNV] may have deterred about three-quarters of a million illegal entries from all four countries through July 2023. This is four times as many unlawful entries prevented as legal entries permitted under the process.”
    - [Border Patrol arrests](#) of individuals from CHNV countries decreased from 38 percent to 9 percent.
  - **Parole programs free up resources and improve security at the southern border.**
    - Eliminating these programs, or preventing future programs from being developed, would mean processing more noncitizens at the southern border instead of vetting them prior to arrival.
      - This ends up being costly to the taxpayer, as it would require more detention beds and more Border Patrol officer time and resources.

<sup>1</sup> An authority similar to parole existed as early as 1917. Ninth Proviso, Immigration Act of 1917, Pub. L. 64-301, §3, 39 Stat. 874 (1917). Parole as a term was first codified in the initial 1952 Immigration and Nationality Act. P.L. 414 June 27, 1952.

- For example, higher volumes of entries will lead to more people entering between ports of entry. At ports of entry, [migrants are fingerprinted and photographed](#), ensuring that they are logged into the database.
  - Similarly, security checks for parole programs are conducted by additional U.S. agencies. The noncitizen abroad is pre-screened prior to arrival in the United States, which ensures that individuals arriving with parole had a [background check](#) conducted prior to their arrival.
- **Removing parole would exacerbate the challenges** cities like New York, Boston, DC, and Chicago are facing in meeting the physical needs of displaced people. Parole allows for work authorization. Parole allows for work authorization, and thereby permits individuals to support themselves and achieve stability.

### What is parole and how has parole been used historically?

- Parole is an authority used by the executive branch to authorize the entry or permit the continued presence of a noncitizen. It may be granted “on a case-by-case basis for urgent humanitarian reasons or significant public benefit.”<sup>2</sup>
  - **Parole is temporary**, it allows for a noncitizen to enter and remain in the United States legally and apply for work authorization. DHS can and does end parole programs when circumstances change.
- **Administrations of both political parties use parole programs** to address countless humanitarian situations. These include executive decisions to:
  - Parole in refugees from the failed Hungarian revolution in 1956;
  - Parole in thousands of Cubans and Haitians during the Mariel Boatlift;
  - Grant Cuban nationals parole under a “wet foot/dry foot policy” until 2017;
  - Parole for Soviet and Indochinese nationals, many of whom later adjusted under the long standing Lautenberg Amendment;
  - Establishing the Cuban Family Reunification and Haitian Family Reunification Parole programs; and
  - Parole in place for military service members and family members.

### What is the distinction between parole programs and parole from detention?

Much like at the border, parole is a critical tool for enforcement officers to use their Congressionally authorized discretion to grant noncitizens their liberty pending their immigration cases. U.S. Customs and Border Protection (CBP), U.S. Citizenship Immigration Services (USCIS), and Immigration & Customs Enforcement (ICE) [all have parole authority](#).

- How parole from detention works:
  - In detention, ICE can grant a conditional release and parole under [INA §236\(a\)](#) to noncitizens awaiting a final immigration decision. ICE sets conditions for release and parole such as regular check-ins and electronic monitoring.
  - [In ICE detention](#), the impacted population goes beyond recent border arrivals. On any given day, people in detention include [long-term residents](#), [parents of U.S. citizen children](#), [international students](#), [lawful permanent residents](#), and even [military veterans](#).
- **Detention authority in immigration is very broad, underscoring the importance of paroling individuals from detention.** Congress was careful to also grant the authority to enforcement officers to conditionally release and parole people. This balance must not be upended and should be off the negotiating table.
- **Parole from detention saves lives.** During the height of the Covid-19 pandemic, [the Fraihait litigation](#) settlement required ICE to consider medical histories of people who are at higher risk of death due to COVID-19. For some people, that required ICE invoking its parole authority.

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<sup>2</sup> Congressional Research Service, *Immigration Parole* (October 15, 2020) <https://crsreports.congress.gov/product/pdf/R/R46570>, 3.