

DRAFT**DRAFT****Programs and Procedures for DoD-sponsored Parole of Foreign Nationals****Overview:**

There are multiple programs and procedures available for bringing foreign nationals and, in some cases, accompanying family members into the US, including normal immigration, refugee processing, and parole. This paper focuses on parole. Parole is used by various U.S. agencies to remove Iraqis rapidly, often because they are at risk of violence due to service they have provided to the U.S, they require urgent medical care that is unavailable in their home country, or they are needed in the U.S. to appear as witnesses in legal proceedings, including courts martial. However, parole is a temporary measure (usually less than one year) that does not provide a visa or enduring immigration status. All DoD parole applications are processed through the Department of Homeland Security, as DoD has no independent authority to admit foreign nationals to the U.S.

This paper is geared toward Iraq, where most parolees originate, but is equally applicable to other states. Most Iraqi citizens entering the U.S. must do so as refugees or through the visa application process. Both procedures are time-consuming and are not designed for emergency evacuations due to imminent threats or medical crisis, for example. There are specialized procedures within each process, such as the Special Immigrant Visa (SIV) program and priority visas for foreign national employees of the United States, as well as the U.S. Refugee Admissions Program (USRAP), which categorizes applicants into various priority groups as well. Both programs are operated exclusively by the Department of State and Department of Homeland Security (DHS), to whom questions concerning those procedures should be addressed.

The following procedures provide general information on parole application and processing, and do not constitute a formal DoD Directive. Applications are considered on a case-by-case basis and procedures may vary depending on specific or special circumstances relating to individual cases.

General Parole Procedures:

Parole is a discretionary power of the Attorney General delegated to DHS. When approved by DoD and authorized by DHS, parole permits aliens to enter the United States without a visa.

Within DoD, parole is an unfunded program under which Iraqis (and in some cases Afghani nationals) are sponsored by U.S. personnel in Iraq to visit the U.S, for specific purposes. Costs associated with parolee residency in the U.S. are normally paid by sponsoring organizations, which are also responsible for oversight of the foreign national in the U.S. In medical cases, travel to the U.S. and treatment are normally donated by charitable organizations, although some parolees are approved for non-reimbursable military air evacuation and treatment in DoD medical centers. For parolees admitted for law enforcement purposes (e.g., testimony), cost and oversight are met by the DoD organization responsible for the case at issue.

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Parole is utilized by various agencies. Each agency has procedures for obtaining applicant approval and DHS authorization to parole individuals that an agency wishes to sponsor. Invariably, parole is the quickest and easiest route if the applicant and sponsor can meet program requirements. Those requirements are intended to validate the need for parole and prevent misuse of parole as a means of circumventing refugee and immigration procedures.

There are three distinct parole processes: Advance parole (AP), humanitarian parole (HP), and significant public benefit parole (SPBP).

a. Advance parole authority generally rests with a domestic DHS District Office and is used by aliens already in the United States who are traveling abroad and need advance permission to return.

b. Humanitarian parole is an extraordinary measure that is sparingly utilized to bring an otherwise inadmissible alien to the United States for a temporary period of time due to a compelling urgency. To do so, an individual or organization (e.g., an NGO) may submit an Application for Travel Document (DHS Form I-131) directly to the DHS Parole and Humanitarian Assistance Branch (PHAB). Further instructions for HP applications are available on the USCIS.gov website section for immigration forms. The Department of Defense utilizes HP under special circumstances, such as rapid evacuation of an Iraqi national to the U.S. for live-saving medical treatment that is unavailable in Iraq.

The DOS may express its official opinion directly to the PHAB through the Visa Office for HP cases, but the DOS does not sponsor or submit the actual HP application; an individual or private organization does the submission. State Department personnel in their official role may not request HP for aliens on behalf of the Department. Individuals granted humanitarian parole (HP) are approved for a limited stay in the United States, are not eligible for any public benefits, and are not entitled to work. HP should be a last option for persons ineligible for a visa who cannot obtain a waiver and who have an urgent humanitarian need to travel to the United States. A child needing urgent or life saving medical care not available in his home country, a family member serving as a medical escort or a family member donating an organ are examples of HP.

c. Significant Public Benefit Parole (SPBP): If an individual of significant political and public interest to the USG is unable to apply for refugee status at a UNHCR office abroad and is in danger of imminent harm, Defense, and Justice may, in rare and compelling instances, consider recommending Special Public Benefit Parole (SPBP) under an MOU with the Department of Homeland Security (DHS). DHS has sole authority to grant parole. To qualify for SPBP, each of the following must apply:

No visa status (Non-Immigrant Visa or Immigrant Visa) is available for the individual.

No timely refugee processing mechanism is available in the country where the individual is located.

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The individual cannot get to a country where refugee processing is available (i.e., Jordan, Syria, etc.). This is true for many Iraqis.

There is a clear U.S.G. interest in admitting the particular alien as quickly as possible.

The individual is in imminent, documented danger.

Non-government funding is available to cover expenses including round trip airline ticket, lodging, meals, medical/dental insurance, and incidentals.

Sponsor can identify a Case Agent and Control Officer living in CONUS who will overwatch, control, insure safety and security of the parolees.

State Department-Specific SPBP Procedures:

If all of the above criteria apply and if the Embassy determines that the individual is of significant public interest and foreign policy interest to merit extraordinary processing, the Ambassador or DCM shall transmit to the department the recommending cable, including attestation, with the support of the regional bureau (in these cases NEA/FO) and other USG Front Offices with interest in the parole. The cable should be slugged for CA/VO/F/P with an email to the officers in VO/F/P handling both Iraq and parole issues. VO/F/P will review the paperwork for processing and forward the case for other required clearances. Once cleared and signed by the Deputy Assistant Secretary for the Visa Office (DAS for CA/VO), the Department's request for SPBP is forwarded to PHAB for the parole authorization, which if approved would permit immediate parole into the United States.

The purpose and responsibility of CA/VO clearance is to ensure the parole request falls within the parameters of the State/DHS MOU. PHAB will not accept for consideration requests for SPBP parole from DOS officers without the signature of the DAS for CA/VO.

Unlike refugees, aliens paroled into the United States do not have financial benefits or immigration status and must either leave the United States after a short stay (usually not exceeding one year) or apply for another status, if they are eligible for one, at a domestic DHS office before the expiration of the stay granted them in the parole authorization. While in parole status, individuals are not eligible for public benefits. In some special cases, parolees may work if they have received DHS authorization and the I-688B card, the employment authorization document (EAD).

The Department of State has no authority to approve any type of parole under any circumstances. A recommendation from State Department officers to the PHAB or a request to the Department does not ensure DHS parole approval.

DoD-Sponsored SPBP Parole:

DoD parole involves documenting compelling reasons why an Iraqi or Iraqi family is in danger and why they need to be evacuated/paroled into the US.

Parole may only be requested by a DoD person or unit in Iraq (about which more below) who validates the parolee information and causes requiring parole.

Initiating an SPBP application is straightforward and relatively simple. The more difficult aspect of the process is finding a Case Agent and Control Officer who will serve

DRAFT

as sponsors and parole officers for the parolees while they are in the US. These individuals must answer to DOD and DHS when parole conditions change, if parolees get into trouble, lack adequate financial support, are arrested, flee parole, or fail to return to Iraq. Serving in this role requires a major commitment of the sponsor's time. Parolees MUST have visible means of support, lodging, meals, medical/dental insurance, the ability to support themselves (or have relatives or organizations willing to support them). Once parolees set foot on US soil, they immediately need someone to meet and greet them at an international Port of Entry (normally, New York, Chicago, or Washington DC) and arrange for a place to live, possibly to buy a car, and in some cases to help enroll children in school. This can be very time consuming, especially for the first 90-days until the parolee is settled.

How DoD Uses the Parole Process:

DoD uses the DHS SPBP process principally to provide U.S. forces with a means of rapidly evacuating trusted and highly valued foreign national employees (e.g, translators) when those persons are faced with danger as a consequence of having served the U.S. Government or forces.

As noted, parole is also used to assist Iraqis requiring specialized medical treatment in the U.S. in cases where Iraqis are collateral casualties of Multi-National Force – Iraq operations or when U.S. medical personnel in Iraq believe an Iraqi national requires a level of care that is unavailable in Iraq. The parole process may be used as well on an exception basis for “persons of interest” to senior DoD and other U.S. Government officials and Members of Congress.

This DoD program is intended to overcome significant waiting periods for normal immigrant visa processing or refugee admission. As with parole by other agencies, DoD parole does not provide an alternative to normal immigration,.

DoD has no independent authority to admit foreign nationals to the United States. DoD's use of parole is pursuant to the authority of (and with the consent of) the DHS under the Immigration and Nationality Act (INA), Section 212 (d) (5) (A) [U.S. Code, Title 8, Sec. 1182]. The INA authorizes parole of foreign nationals into the U.S. for a variety of purposes requiring rapid admission, and is often used by law enforcement agencies to enable appearance of foreign witnesses needed for U.S. criminal trials or courts martial.

Steps in the process by which DoD participates in SPBP matters are adapted from uniform procedures and accountability requirements of DHS:

Any member of the U.S. military or DoD civilian serving outside CONUS may request that an local national employed by U.S. forces be paroled into the U.S. The sponsoring individual or unit must fully document the service provided by the Iraq employee and the threat he or she faces.

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Proposed SPBP program parolees must be approved by a general officer or flag officer (GO/FO) in the chain of command to validate that the application and justification are credible and complete and that the threat to the individual(s) is properly documented.

A DoD Program Facilitator in Baghdad initiates coordination among various agencies, including the Consular Section of the U.S. Embassy, to arrange the logistical and administrative actions required to enable the proposed parolee to depart Iraq, including security screening. The Facilitator (often called the Collateral Case Agent) arranges travel and works with the sponsor to ensure that support arrangements for the parolee are in place in the U.S.

SPBP nominations are approved and forwarded through USCENTCOM to the Office of the Secretary of Defense (Office of the Assistant Secretary for International Security Affairs/Deputy Assistant Secretary for Middle East) for DoD review.

Qualifying applications are then forwarded by OSD to DHS PHAB for appropriate action/consideration.

DHS circulates the proposed parolee background information (including family if accompanied) to U.S. law enforcement agencies (LEAs) for name/background check and to the Deputy Attorney General (Executive Office for National Security).

If parolees are cleared, DHS issues an Approval Memo, normally accompanied by a cable to the supporting Embassy and to the U.S. Citizenship and Immigration Services (USCIS)/Border Protection Service at the designated port of entry (POE) for the parolee. The Approval Memo lists any conditions and limitations on the activities or travel of the parolee.

In cases of denial, DHS notifies the sponsoring agency and retains a file on the proposed parolee.

For approved parolees, the supporting Embassy then issues a "Travel Letter" in lieu of a visa, enabling the parolee to depart the country within a specified period (normally, seven days). The DoD Facilitator in Baghdad arranges for the parolee to obtain the Travel Letter from the Consular Office, Baghdad.

DoD is responsible for appointing an official or officials who monitor the parolee, including a "case agent" and "control officer" for each SPBP parolee entering the U.S. These officials must reside in the U.S. to properly supervise the parolee.

U.S. individuals who serve as case agents and control officers must be active duty, reserve, or retired military, or DoD civilians who have the background and experience to support parolees and respond to assigned directives applying to SPBP cases. Non-DoD personnel normally cannot be utilized. A U.S.-based

DRAFT

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DRAFT

official functions in the role of a “parole officer,” responsible for monitoring, observing, and providing the first line of assistance to the parolee.

The actual minimum requirements for monitoring parolees while in the U.S. are specified by DHS, but there normally are case-specific support requirements for individuals.

Prepared by: John Merrill/ISA/ME-Iraq, 703-571-2511, 10 Mar 09

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