



U.S. Citizenship and Immigration Services

INTERNATIONAL OPERATIONS OFFICER TRAINING

International Operations Officer Training Course

HUMANITARIAN AND SIGNIFICANT PUBLIC BENEFIT PAROLE

THIS MODULE IS NOT APPLICABLE TO SPECIAL COUNTRY BASED PAROLE, SUCH AS CUBAN MEDICAL PROFESSIONAL PAROLE (CMPP) OR CUBAN FAMILY REUNIFICATION PAROLE (CFRP).

TRAINING MODULE

MARCH 8, 2017

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RAIO Directorate – Officer Training / *International Operations Officer Training Course*

HUMANITARIAN AND SIGNIFICANT PUBLIC BENEFIT PAROLE

Training Module

MODULE DESCRIPTION:

This training module provides an overview of the relevant statutory provisions and policy guidance pertaining to the adjudication of an application for advance authorization of humanitarian or significant public benefit parole. This module does not apply to the adjudication of specialized parole programs such as the Cuban Family Reunification Parole (CFRP) Program, the Cuban Medical Professional Parole (CMPP) Program, the Haitian Family Reunification Program (HFRP), the Central American Minors (CAM) Refugee/Parole Program or any other type of parole program administered by DHS. Through lecture, discussion, and practical exercises, students will become familiar with the analytical framework for adjudicating a parole request, the common types of parole requests received at the International Operations Division, the factors to consider when determining urgent humanitarian reasons or significant public benefit, and discretion.

FIELD PERFORMANCE OBJECTIVE(S)

When adjudicating a request for parole, whether submitted on Form I-131 or through a government request, you (the Officer) will be able to apply the two-step parole analytical framework and make a decision considering the totality of circumstances.

INTERIM PERFORMANCE OBJECTIVES

1. Explain the governing legal authority, jurisdiction, and eligibility criteria for an application for advance authorization for parole (parole request).
2. Summarize the steps and actors involved in the life cycle of a parole request.
3. Explain the two-part analytical framework for adjudicating parole requests.
4. Identify factors to consider when determining urgent humanitarian reasons and significant public benefit.
5. Identify factors to consider in the exercise of discretion.
6. List the common types of parole requests and type-specific factors to consider.

7. Explain the burden and standard of proof, as well as the types of evidence, required for parole applications.
8. Apply pertinent laws and guidance in adjudicating a parole request whether submitted on Form I-131 or through a government request.

INSTRUCTIONAL METHODS

Lecture, discussion, case studies, group activities and practical exercises

METHOD(S) OF EVALUATION

Exam [under development] and practical exercises

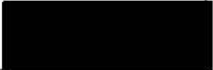
REQUIRED READING

1. September 2008 Memorandum of Agreement (MOA), “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.”
2. July 9, 2012 Memorandum from IO Chief, Joanna Ruppel to IO-IO Staff, “Procedural Guidance on Parole Case Submissions for Adjudication by the International Operations Division’s Humanitarian Affairs Branch”
3. September 27, 2012 Memorandum from IO Chief, Joanna Ruppel to IO and IASB Staff, “Parole Adjudication Guidance – Officer Adjudication and Documentation”
4. Form I-131, *Application for Travel Document* and Instructions
5. Form I-134, *Affidavit of Support* and Instructions
6. November 23, 1999 Memorandum from INS General Counsel to INS Field Operations and Office of International Affairs, “Readmission of Asylees and Refugees Without Travel Documents”
7. 1998 *Protocol Governing Significant Public Benefit Parole Requests by the Department of State to the Immigration and Naturalization Service*
8. October 9, 2008 Memorandum from USCIS Acting Director to RAIO Associate Director, “Classified Systems Checks for Humanitarian and Significant Public Benefit Parole Requests”
9. Parole Adjudication Worksheet User Guide [under development]

10. CAMINO Parole Case Data Entry Procedures [under development]

11. March 2013, *Parole Procedures Manual*

SCHEDULE OF REVISIONS

Date	Section (Number and Name)	Brief Description of Changes	Made By
03/08/2017	1.1	Added DHS EO Implementation Guidance Footnote	

(b)(6)

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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 lesson plan applies only to requests for parole documents processed by the Humanitarian Affairs Branch (HAB) and the International Adjudications Support Branch (IASB) of the International Operations (IO) Division, U.S. Citizenship and Immigration Services (USCIS), Refugee, Asylum and International Operations (RAIO) Directorate.

Throughout this training module, you will see the term “**request for parole,**” “**parole request**” or “**parole application.**” These terms are interchangeable and refer to an application requesting advance authorization for parole for urgent humanitarian reasons or significant public benefit. There are two ways parole can be requested on behalf of an individual outside the United States:

1. An individual may file a request using the Form I-131, *Application for Travel Document*, or
2. A United States (U.S.) Government agency of the Executive Branch may file on behalf of an individual.

It is important to note that the parole guidance contained in this lesson plan does *not* apply to requests for parole under the Cuban Family Reunification Parole (CFRP) Program, the Cuban Medical Professional Parole (CMPP) Program, the Haitian Family Reunification Program (HFRP), the Central American Minors (CAM) Refugee/Parole Program or any other type of parole program administered by DHS.

1 INTRODUCTION AND OVERVIEW

This training module provides guidance to you, the Officer, in adjudicating applications requesting advance authorization for parole filed with the IO Division of USCIS by, or on behalf of, an alien who is outside the United States. The relevant statute, regulations, and case law provide little guidance on the administration of the parole provision.

Throughout this lesson plan, the term “parole request” refers to applications requesting advance authorization for parole. Upon the grant of such a request, the Department of State (DOS) (or USCIS) issues a travel document to the individual that allows Customs and Border Protection (CBP) to issue a parole upon the individual’s arrival at a U.S. port of entry.

The purpose of this lesson plan is to provide Officers within IO with a general framework for adjudicating parole requests, in order to promote consistency and transparency in the process as a whole.

TERMINOLOGY

Petitioner: A petitioner is an individual or entity who completes Form I-131, *Application for Travel Document*, or a U.S. Government agency of the Executive Branch that requests parole, on behalf of an individual outside the United States (or in the United States, if it is a request for re-parole). The term “self-petitioner” refers to an individual who files Form I-131 for him or herself. In this lesson plan, the term “petitioner” includes individuals who self-petition and individuals filing a parole request on behalf of someone else.

Beneficiary: A beneficiary is an individual, residing outside the United States (or in the United States, if it is a request for re-parole), who receives the parole benefit.

Sponsor: A sponsor is an individual who agrees to provide financial support for the beneficiary of a parole application by filing Form I-134, *Affidavit of Support*.

Parolee: A parolee is an individual who has been authorized parole and came to the United States under the parole authorization.

1.1 What is Parole?

Parole is an extraordinary measure sparingly used to allow an alien, who may be inadmissible or have no other immigration options, to come to and stay in the United States for a temporary period. Parole is not intended to be used solely to circumvent normal visa processing procedures and timelines, to bypass inadmissibility waiver processing, or to replace established refugee processing channels.¹

The Secretary of Homeland Security may, in his or her discretion, parole into the United States temporarily, under such conditions as he or she may prescribe, on a case by case basis, for urgent humanitarian reasons or significant public benefit, any alien applying for admission to the U.S.² Historically, parole requests filed with IO have been referred to as “humanitarian parole” requests both within and outside the Government, because the overwhelming majority of parole requests are made for urgent humanitarian reasons. However, it is important to note that parole requests filed with IO may be based on either urgent humanitarian reasons or significant public benefit. Upon receipt of a parole request, IO determines whether grounds exist for authorizing parole. If so, IO will

¹ 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

² INA § 212(d)(5).

provide advance authorization for parole and DOS (or USCIS) will issue a travel document enabling the individual to present him or herself at a U.S. port of entry to seek parole from CBP.

Valid reasons for parole requests include, but are not limited to the following:

- to seek medical treatment;
- for family unification or other family-related reasons;
- to attend legal proceedings; or
- for protection purposes.

1.2 Who May File for Parole/Parties to the Parole Request?

Anyone can request parole for him or herself, or on behalf of another individual by filing Form I-131, *Application for Travel Document*. Additionally, U.S. Government agencies of the Executive Branch may also request parole on behalf of individuals outside the United States using the *Request for Parole Template*. Note: the *Request for Parole Template* is not an official form and is an internally developed document for use by U.S. Government agencies of the Executive Branch to request parole on behalf of an individual outside the United States.

1.2.1 Who May Be a Parole Petitioner?

The parole petitioner is any individual or entity that files the Form I-131, *Application for Travel Document*, or the U.S. Government agency that submits the *U.S. Government Agency Request for Parole Template* on behalf of an individual outside the United States. An individual may also self-petition for advance authorization for parole if he or she is outside the United States (or are requesting re-parole if inside the United States). The petitioner need not be a resident of the United States or related in any way to the beneficiary.

1.2.2 Who May Be a Parole Beneficiary under IO Jurisdiction?

To request parole under IO jurisdiction, the parole beneficiary must be:

- located outside the United States and be seeking to enter the United States, or
- if in the United States, have already been granted parole (e.g., is seeking re-parole) by IO.

A parole beneficiary is a foreign national or stateless person, but may previously have received status in the United States (e.g., asylee, refugee, or nonimmigrant).

1.2.3 Who May Be a Parole Sponsor?

The parole sponsor is the individual who makes a financial obligation to provide support to the beneficiary while he or she is in the United States for the duration of the parole authorization period. Most often, the sponsor is a lawful permanent resident (LPR) or

U.S. citizen (USC) and has sufficient income or financial resources to meet the Health and Human Services (HHS) Federal poverty guidelines. The sponsor is required to submit an 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 United States. A beneficiary may also self-sponsor and would need to execute an I-134 for him or herself and include supporting financial documentation. 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, then IO may accept a letter of commitment from the organization. Please see the Section 4.4 on *Evidence* below.

1.3 How to Request Advance Authorization for Parole – Two Filing Methods

1.3.1 Request by Individual on 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 HAB at IO Headquarters (HQ) in Washington, DC for adjudication. In certain circumstances, for urgent and time-sensitive reasons, IO management has the discretion to accept applications filed directly with IO at IO HQ, or at a USCIS office or U.S. Consulate abroad. IO's IASB supports IO in adjudicating parole requests.

1.3.2 U.S. Government Agency Request for Parole

A U.S. Government agency of the Executive Branch may also request parole on behalf of an individual outside the United States. 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 the alien's presence in the United States is for urgent humanitarian or for significant public benefit reasons. A request based on significant public benefit is generally premised on the belief that parole of the individual will facilitate one of the following:

- National security;
- Advancing foreign policy goals; or
- Other advantage or benefit to the United States.

The beneficiary of a U.S. Government agency parole request is not required to file Form I-131, and no fee is paid. A government agency requests parole on behalf of the beneficiary directly from IO on the *U.S. Government Agency Request for Parole Template*. The template is submitted with 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. Historically, this method for a U.S. Government agency to request parole has been referred to as "Significant Public Benefit

Parole (SPBP)” or “Public Interest Parole (PIP)”); however, a U.S. Government agency may make a parole request for either urgent humanitarian reasons or significant public benefit. 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.

1.4 Request for Re-Parole

There is no provision in the regulations to extend the parole authorization period for an individual who has already been paroled into the United States. Parole ends on the date the parole period expires, when it is terminated by DHS, or when the parole beneficiary departs the United States or changes to an immigration status, whichever occurs sooner. Although parole is temporary in nature, in some instances an alien who is present in the United States may need to remain in the United States beyond the period of authorized stay -- for example, if the medical treatment that the beneficiary entered the United States to receive is not yet complete. In such instances, the petitioner may request re-parole from within the United States.

IO has the authority to re-parole an individual only if IO authorized the initial parole. The petitioner may request re-parole by filing a new Form I-131, with requisite fees and supporting documentation to demonstrate the need for the re-parole and is encouraged to do so 90 days in advance of the expiration of the authorized parole period. to allow sufficient processing time and to ensure continued lawful presence.

For a beneficiary of a government parole request who needs to remain in the United States beyond the period of authorized parole, 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 Request for Parole Template*, or the individual may file Form I-131, *Application for Travel Document*, to request to be re-paroled.

The Parole Procedures Manual provides additional information on parole filing requirements.

1.5 Other Uses for Form I-131, *Application for Travel Document*

This lesson plan focuses on the processing of parole requests for individuals outside the United States (or those in the United States who request re-parole). Please note that Form I-131 is a multi-purpose form and is used to request travel documents or parole in other types of circumstances. The following is a brief description of some other situations in which individuals may procure a travel document or parole by filing Forms I-131. If the parole beneficiary is traveling to the United States, a transportation company may accept any of these documents in lieu of a visa as authorization for the holder to travel to the United States.

Reentry Permit

A Reentry Permit allows a permanent resident or conditional resident to apply for admission to the United States upon returning from abroad during the permit's validity

without the need to obtain a returning resident visa from a U.S. Embassy or consulate. *Reentry Permits* are generally valid for 2 years from the date of issuance and their validity period cannot be extended. More detailed information about *Reentry Permits* may be found in the Form I-131 Instructions and in Chapter 52 of the USCIS Adjudicator's Field Manual.

Refugee Travel Document

A *Refugee Travel Document* is a document issued to a person classified as a refugee or asylee, or to a permanent resident who obtained such status as a refugee or asylee in the United States. Unless the individual has adjusted and has a green card, as well as a passport, he or she must have a *Refugee Travel Document* to return to the United States after temporary travel abroad, unless they possess an Advance Parole Document. A refugee/asylee must apply for a *Refugee Travel Document*, using the Form I-131, prior to his or her departure from the United States, or in certain circumstances, within a year from departure, from an international USCIS office. More detailed information about *Refugee Travel Documents* may be found in the Form I-131 Instructions and in Chapter 53 of the USCIS Adjudicator's Field Manual.

Advance Parole Document for Individuals in the United States

Advance Parole Documents for individuals in the United States authorize certain aliens to return to the United States without an immigrant visa or nonimmigrant visa after temporary travel abroad. An individual who requires an advance parole in order to enter the U.S. upon return, must apply for and receive an *Advance Parole Document (I-512)*, using the Form I-131, prior to departing the United States. More detailed information about *Advance Parole* may be found in the Form I-131 Instructions and in Chapter 54 of the USCIS Adjudicator's Field Manual.

Parole in Place for Individuals in the United States

Parole in Place allows individuals without legal status to remain in the United States for urgent humanitarian reasons or for significant public benefit. For example, in November 2013, USCIS established a program to consider *Parole in Place* for immediate family members of active duty members and veterans of the U.S. Armed Forces (USCIS PM-602-0091, Nov 15, 2013). More detailed information about *Parole in Place* may be found in Chapter 21.1 of the USCIS Adjudicator's Field Manual.

1.6 Characteristics of Parole

Parole does not constitute an admission into the United States. A Customs and Border Protection (CBP) officer at a port of entry inspects the prospective parole beneficiary, may grant parole, allows the parolee's physical entry into the United States, and issues an I-94, *Arrival/Departure Record* to the parolee documenting the length of his or her authorized parole period. Although rarely exercised, CBP retains the authority to deny parole or to modify the length of parole authorized by USCIS. Since parole does not constitute an admission, individuals who are otherwise inadmissible may be "paroled" into the United States. Further, parole does not confer any immigration "status."

However, in certain situations, a parolee if otherwise eligible may be able to obtain lawful immigration status in the United States through other means. For example, a Cuban national parolee may be eligible to adjust to lawful permanent resident status under the Cuban Adjustment Act, a parolee may apply for asylum, and if approved subsequently adjust his or her status to a lawful permanent resident, or a parolee may be able to obtain TPS.

USCIS may grant a parolee temporary employment authorization as a matter of discretion if the parolee requests employment authorization by filing Form I-765, *Application for Employment Authorization*. Parole terminates automatically, generally without notice upon the parolee's departure from the United States, upon obtaining an immigration status, or upon the expiration of his or her parole status noted on the I-94, *Arrival/Departure Record*, whichever is sooner.³ A Notice of Intent to Terminate (NOIT) or initiation of removal proceedings through the service of a Notice to Appear (NTA) constitutes written notice of termination of parole.

1.7 Privacy Rules Relating to Parole Cases

The Privacy Act of 1974 establishes safeguards for the protection of records the Government collects and maintains on USCs and LPRs. [See Adjudicators' Field Manual, Chapter 10.12]. The Privacy Act applies to any item, collection, or grouping of information about USCs or LPRs that can be retrieved by using the person's name, social security number (SSN), alien registration number (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). DHS extends these privacy protections to aliens as a matter of policy.

Information contained in a parole request is often of a sensitive nature involving personal and medical information and should not be released to third parties, except pursuant to routine use (e.g., security check procedures with other agencies), without the petitioner or beneficiary's written consent. USCIS must not release information related to a parole request, such as a request for a status update, to anyone other than the petitioner or beneficiary listed on Form I-131 or the representative listed on the G-28, *Notice of Entry of Appearance as Attorney or Accredited Representative*, or a properly executed Form G-28, *Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the U.S.*, including, except pursuant to routine use and otherwise consistent with the law.

A revised Form G-28, with a March 4, 2015 edition date, includes two new boxes that allow the applicant/petitioner/requestor to tell USCIS whether they want to receive their notices and secure documents directly, or whether they want USCIS to send them to their legal representative.

³ 8 CFR 212.5(e)(1)

Beginning April 13, 2015, USCIS will not accept earlier versions of Form G-28. If an applicant, petitioner, or requestor submits an application or benefit request with a previous version of Form G-28, we will accept only the application or request as long as it meets the acceptance criteria. In this situation, we will not accept the Form G-28 and will send all notices and secure documents only to the applicant/petitioner/requestor.

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. You may not contact a sponsor for additional information, unless it relates to the Form I-134 or supporting documentation required.

If a petitioner requests parole for himself for urgent medical reasons, you may not contact a medical professional to ask about the petitioner's situation without the written consent from the petitioner/patient. Where parole is requested to provide support to an individual receiving medical treatment in the United States, you may not reach out to medical providers or third parties to obtain medical information about the patient without that patient's written consent. Nor should medical information be released to anyone, including the sponsor, without the written consent of the individual whose information will be released.

USCIS' Office of Legislative Affairs (OLA) often reaches out to IO for information on parole requests in order to respond to inquiries from members of Congress on behalf of constituents. When responding to OLA, please check with OLA staff to verify that OLA employees have obtained the needed written consent from the petitioner or beneficiary, and retain a copy of that written consent in the A-file, as well as make a note of it in the remarks field in CAMINO. Certain Congressional members with oversight authority over the agency may also be able to receive documents, but OLA will make that determination. If you receive an inquiry directly from a member of Congress or a Congressional staff member, you should refer the individual to OLA for assistance in obtaining a response to the inquiry through appropriate channels.

2 LEGAL AUTHORITY AND JURISDICTION

2.1 Legal Authority and Resources

The following statutes, regulations, forms, field guidance, and other resources provide you, an Officer in IO, with the authority and guidance for adjudicating and processing requests for parole filed with USCIS IO. While you may not need to refer to these sources on a daily basis, they are required reading and it is important for you to have a working knowledge of these sources of authority so that you may properly adjudicate the request for parole.

Statute

While USCIS, ICE, and CBP components administer a range of parole categories created in response to myriad circumstances, all parole programs derive from one statutory

source: Section 212(d)(5) of the Immigration and Nationality Act (INA). INA Section 212(d)(5) states:

(5)(A) The Attorney General may, except as provided in subparagraph (B) or in section 214(f) [8 USC § 1184(f)], 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 to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

(B) The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207 [8 USC § 1157].

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

Regulations

8 CFR 212.5(c) pertains to the parole of aliens into the United States and provides USCIS regulatory authority to establish terms and conditions for an individual's parole authorization. Some examples of terms and conditions are listed at 8 CFR 212.5(d), including requiring the individual 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(e) provides guidance on the termination of parole.

Case law⁴

There is little applicable or relevant case law to guide or inform IO parole adjudications. The courts have generally recognized the Department's broad discretion to authorize parole and have been reluctant to review such determinations.

Parole Memorandum of Agreement among DHS Components

A September 2008 Memorandum of Agreement (MOA), "Coordinating the Concurrent Exercise by USCIS, ICE and CBP, of the Secretary's Parole Authority under INA § 212(d)(5)(A) with respect to Certain Aliens Located Outside of the United States"⁵ identifies the types of cases over which USCIS has primary jurisdiction.

⁴ 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).

⁵ 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

Foreign Affairs Manual

The Foreign Affairs Manual (FAM) is a multi-volume guidance document that details the policies and structure of the Department of State (DOS) and provides operational instruction for DOS employees on processing travel documents for individuals whose application for advance authorization of parole is approved by USCIS. Additionally, the FAM provides guidance to DOS employees on the process for making a U.S. Government agency parole request for an individual outside the United States for urgent humanitarian and/or significant public benefit reasons. Foreign Affairs Manual, 9 FAM 42.1 provides information on the process for both.

Adjudicator's Field Manual

The Adjudicator's Field Manual (AFM) is a comprehensive "how to" manual detailing policies and procedures for all aspects of USCIS adjudications. You should use the AFM in concert with the INA, 8 CFR, and other agency guidance.

Legal and HQ Memorandums⁶

USCIS Office of the Chief Counsel occasionally issues memoranda explaining its interpretation of a particular legal issue. Additionally, DHS, USCIS, IO HQ and the RAIO Directorate issue memoranda providing guidance on substantive or procedural matters. Memoranda relevant to the parole adjudication process are included in Appendix A.

Form I-131, Application for Travel Document Instructions

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

As noted above, Form I-131 is a multi-purpose form used for a number of reasons, one of which is to request parole. Accordingly, only those sections of the form instructions that apply to parole for individuals outside the United States (or individuals inside the United States requesting re-parole) are relevant to this lesson, not the form instructions as a whole.

The form, instructions, and additional information on filing Form I-131 are available on the USCIS public website at www.uscis.gov. The portions of the form and instructions that are relevant to parole requests adjudicated by IO are highlighted in Appendix C.

Protocol Governing Significant Public Benefit Parole Requests by the Department of State to the Immigration and Naturalization Service and Request for SPBP Template

This July 16, 1989 Protocol established the procedure for submitting significant public benefit parole requests (now referred to as government referral requests) by the DOS to legacy INS. The protocol establishes that DOS requests significant public benefit parole as a primary means of assisting persons of clear U.S. Government interest who are

(Delegation No. 7010.3, Sec. 2(B)(ls)); 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)).

⁶ See RAIO LP on *Sources of Authority*.

considered to be at risk or unable to travel to a third country for normal refugee processing and also on behalf of foreign parents in certain Hague Abduction Cases.

2.2 Form I-134, Affidavit of Support and Instructions

Form I-134, Affidavit of Support must be filed in conjunction with Form I-131 by an individual who agrees to sponsor the parolee by committing to financially support the parole beneficiary while he or she is in the United States. The form, instructions, and additional information on filing Form I-134 and the required supporting documentation are also on the USCIS public website at www.uscis.gov. See Appendix D

2.3 Jurisdiction

The term “jurisdiction” refers to the adjudicative body that has the authority to decide a case. The Secretary of DHS has delegated his parole authority to the following three agency components: USCIS, ICE, and CBP. The MOA between the three DHS components outlines the types of cases over which each component has jurisdiction, 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 a final order of removal (including one that has been executed) fall to 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 non-exhaustive list of types of parole requests and the agency that has appropriate jurisdictional authority to adjudicate them.

The Lifecycle of a Parole Case

The adjudication and processing of a parole case involve numerous steps and requires significant inter- and intra-agency coordination. To understand your role in the lifecycle of a parole case, review the processing and adjudication of a case from start to finish.

2.3.1 Step 1: Filing of Parole Request

- 1(a): Petitioner files Form I-131 along with the filing fee (or Form I-912, *Request for Fee Waiver*) with the USCIS Lockbox in Dallas and the Lockbox forwards the parole request to HAB at IO HQ in Washington, DC after it is received and processed at the Lockbox; or
- 1(b): If the case is sufficiently urgent or time-sensitive, with IO-HAB management approval, IO accepts the case as a direct file and begins processing while it simultaneously forwards the parole request to the USCIS Lockbox;
- 1(c): If the case is filed directly with IO-HAB but is not sufficiently urgent or time –sensitive, IO forwards the parole request to the USCIS Lockbox for processing; or
- 1(d): If the case is sufficiently urgent or time-sensitive, with IO-HAB management approval, a Consulate overseas may accept Form I-131 along

with the filing fee directly and forwards it 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 at post.

2.3.2 Step 2: Triage and Assignment at IO-HAB

IO-HAB mission support staff triage each request to determine jurisdiction and whether the case warrants expediting due the urgent or time-sensitive nature of the request. The staff then enters the case into the Case and Activity Management of International Operations (CAMINO) and immediately assigns the request to an Officer for adjudication.

2.3.3 Step 3: Adjudication of Parole Request

Once you receive the request, you will adjudicate the application. This includes:

- Reviewing the application and all supporting documents;
- Issuing a Request for Evidence (RFE) or Notice of Intent to Deny (NOID), if necessary;
- Completing all mandatory security checks;
- Completing the Parole Adjudication Worksheet;
- Preparing the decision notice(s); and
- Entering appropriate information related to the request in CAMINO.

2.3.4 Step 4: 100 % Supervisory Review

A Supervisor reviews and signs off on the decision and, upon concurrence with your decision, updates the appropriate field(s) in CAMINO.

2.3.5 Step 5: Applicant and/or Consulate Notification

- 5(a): If the request is approved, the decision letter is mailed to the petitioner and beneficiary and their attorney of record, if applicable, and a parole authorization memorandum is emailed (encrypted) to the Embassy, Consulate, or USCIS Office closest to the beneficiary's residence. The request is completed when the date(s) the notices are sent is recorded in CAMINO; or
- 5(b): If denied, withdrawn or closed, the appropriate decision letter is mailed to the petitioner and beneficiary, and their attorney of record, if applicable. The request is completed when the date the notice is sent is recorded in CAMINO.

2.3.6 Step 6: Issuance of Travel Documents and Parole into the United States (Approvals Only)

Beneficiaries must complete a Form DS-160, *Application for a Nonimmigrant Visa* and appear for an appointment with the consular section to verify identity and collect biometrics (for individuals 14 years of age or older) for additional security vetting. If no derogatory information or new information is identified during vetting, the Consulate will issue a boarding foil within 30 days of receipt of the parole authorization memorandum. This document allows the beneficiary to travel to the United States within 30 days of issuance of the boarding foil and to present themselves to CBP for inspection at a port of entry.

2.3.7 Step 7: CBP Authorizes Parole into the United States (Approvals Only)

A parolee is permitted physical entry into the United States by a CBP officer, following inspection at a port of entry. At this time, the parolee is issued an I-94, *Arrival/Departure Record*, documenting the length of his or her authorized parole period. If paroled by CBP, the applicant's authorized parole period begins when the applicant enters the United States.

3 MAKING A DECISION ON A PAROLE REQUEST

As an Officer in the IO Division, it is your responsibility to adjudicate every parole request in a legally sound, professional, and comprehensible manner. It is important that all Officers follow the same analytical framework for reaching a decision to ensure clarity, consistency, quality, and transparency in the adjudication process. Because parole is discretionary, reasonable minds may differ on parole decisions based on substantially similar sets of facts, and many situations may meet the threshold standards reasonable minds may differ on parole decisions based on substantially similar sets of facts.

Although parole requests may be similar in nature, each application is unique and must be evaluated on its own merits taking into account all the factors unique to the specific parole request, considering the totality of the circumstances. Parole requests by their very nature involve compelling, time-sensitive, and urgent circumstances. Parole decisions may involve matters of life or death. You have a duty to be a neutral, unbiased adjudicator and to give adequate and appropriate consideration to every parole decision you make.⁷

Each decision you make must be on a case-by-case basis, taking into account all factors and considering the totality of the circumstances. The following analytical framework will assist you in evaluating parole requests and determining whether parole should be authorized.

⁷ See RAIO LP: *Making a Decision*.

3.1 Overview of the Decision Making Process

When making a decision on a parole request, you 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. You should understand the nature of the parole request and the status of all parties to the case (e.g. Petitioner is a 42 year old USC, seeking parole for his 78 year old father, an Iranian national, to enter the United States to receive medical treatment for stage IV prostate cancer.);
- Considering the totality of the circumstances, apply the two-step parole analytical framework to the facts discretion.
 1. Analyze factors relevant to urgent humanitarian reasons or significant public benefit
 2. Analyze factors relevant to discretion; and
- Determine whether to authorize parole.

3.2 The Analytical Framework for the Adjudication of Parole Requests

The legal authority for parole comes from INA § 212(d)(5), as discussed in Section 2.1 above. The two basic elements of the statute provide the basis for the two-step analytical framework to analyze parole requests. The analytical framework and steps are discussed in greater detail below.

4.2.1 Part I – 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.”

Urgent Humanitarian Reasons

To determine whether urgent humanitarian reasons exist, you should evaluate the evidence presented to determine whether a certain set of factors are present. You 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. You may give some factors more weight than others, or evaluate each factor equally, but first you will need to determine which factors, if any, are relevant to the decision. Think of the factors relevant to urgent humanitarian reason as initial guideposts in your analytical process. They should help direct you towards a decision. In medical cases, one factor material to urgent humanitarian reason is the nature and severity of the medical condition. The more severe or critical the medical condition, the greater the likelihood that the need for medical treatment will establish an urgent humanitarian

reason for parole into the United States. Once you have determined which factors are applicable to the case you are currently adjudicating, you should determine, based on the record whether the factors support a finding of urgent humanitarian reason. Bear in mind that ultimately, you 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.⁸

Humanitarian - 1) having concern for or helping to improve the welfare and happiness of people; 2) pertaining to the saving of human lives or to the alleviation of suffering.⁹

In considering whether a parole request is for urgent humanitarian reasons you should consider whether the request is for an immediate **or** compelling reason. “Urgent humanitarian” does not necessarily translate to an emergency. An applicant may 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 Sections 7-12 below.

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

⁸ www.freedictionary.com

⁹ <http://dictionary.reference.com/browse/humanitarian>

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.

4.2.2 Part Two: Analysis of the Exercise of Discretion

If you determine that urgent humanitarian reasons and/or significant public benefit has been established, you should proceed to step two of the analysis, which requires you to exercise 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.

You should exercise discretion based on articulable, objective, and relevant facts. It is inappropriate to exercise discretion arbitrarily, inconsistently, or based upon speculation. You should review the record and consider the specific facts relevant to each case. There are certain general factors that you should look for, which are explained in detail below, and there may also be additional factors, depending on the type of parole request. Discretionary factors specific to common case types are covered in Sections 7-12 below.

In exercising discretion, you might imagine that you have a scale and are required to place all the negative factors in a case on one side and the positive factors on the other side, taking 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. However, the urgent humanitarian reason or significant public benefit is not in itself determinative and may be outweighed by the 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 you should exercise discretion to deny the parole request. You 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 five or six 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 you analyze the positive and negative factors, you should explain in your decision (on the *Parole Adjudication Worksheet*) your reason for exercising discretion to approve or deny authorization for the beneficiary to be paroled in to the United States.

The following factors, where present, often apply to all parole requests and should be considered along with any other positive or negative factors in the exercise of discretion:

- Character and conduct of parties to the parole request;
- Beneficiary's ties to family members who are USCs or LPRs;
- Criminal record of any party to the parole request;
- Immigration history of any party to the parole request;
- Ability of beneficiary to be financially supported for the duration of the parole request;
- Likelihood of the beneficiary's timely departure prior to the expiration of parole; and
- Ability of the beneficiary to obtain lawful immigration status in the United States prior to the expiration of parole.

Depending on the circumstances, some of these factors may be considered either positive or negative. For example, the fact that an inadmissibility ground applies to the applicant may weigh in favor of exercising discretion to authorize parole, because the applicant has no other way to come to the United States to address the situation for which parole was requested. On the other hand, the reason the applicant is inadmissible may be a negative factor (such as a serious criminal conviction) that weighs against exercising discretion favorably.

Some common positive discretionary factors include, but are not limited to, the following:

- Evidence that the purpose of the parole request may be accomplished within a specific, temporary period of time. For example, where the petitioner submits evidence that the beneficiary seeks medical treatment in the United States, evidence from hospitals or doctors showing that such treatment may be completed within a specific period of time (a certain number of weeks or months);
- Evidence that the beneficiary would timely leave the United States upon expiration of parole or that the beneficiary has a means of obtaining lawful immigration status during the parole authorization period;
- Lack of criminal history or prior immigration violations;
- Evidence of ties to LPRs or USCs in the United States;
- Evidence that the beneficiary will be supported financially while in the United States (either self-supported or by a sponsor). The sponsor must have sufficient funds to support him or herself, his or her dependents, and any parolee(s) that he or she sponsors;
- Evidence that the beneficiary's presence would benefit a USC or LPR or community (e.g., coming to the United States to be an organ donor for someone who otherwise would not be able to obtain the needed organ, or to attend a legal

proceeding that is of general benefit to the community. Both are examples of how the reason for parole itself may be a positive discretionary factor.).

Some common negative discretionary factors include, but are not limited to, the following:

- Insufficient evidence that the purpose of the parole request could reasonably be accomplished within a specific, temporary period of time;
- Failure to establish that the beneficiary would depart the United States prior to expiration of parole or has a means to obtain lawful immigration status in the United States during the parole authorization period;
- Evidence the beneficiary is using the parole process **solely** to circumvent normal visa or waiver processing, or to circumvent established refugee, asylee, or derivative processing channels;
- Derogatory information about any party to a parole request such as:
 - Criminality,
 - National security threat or other threat to community,
 - Immigration violations, or
 - Fraud, in the current application or in prior immigration transactions.
- Failure to establish that the beneficiary will have sufficient financial support.

4.2.3 Determining Length of Parole and Conditions on Parole

Once you have applied the two-step analytical framework and decided to authorize parole, there are two more decisions you 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. Guidance on making those decisions is discussed in this section.

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. However, it is important to remember that ultimately you, the deciding Officer, have the authority to determine the length of parole. You 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.

Upon reviewing the file, you may find that the parole authorization period should be shorter than what is requested on Form I-131. For example, a petitioner who requests

parole for a period of six months to attend the funeral of her father may be able to accomplish the purpose of the parole request in a much shorter period, such as a few weeks. In those instances, you could authorize parole for that shorter time frame, or request additional evidence to establish the reason the longer length of time is required, for instance to settle the affairs of the deceased's estate or contest a will. 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 not to exceed two years per parole request without approval of the IO Chief.

Placing Conditions on Parole

Occasionally you may encounter a parole request where the petitioner has established an urgent humanitarian reason or significant public benefit and 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. For example, the beneficiary may have 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. In these cases, if the urgent humanitarian reason for parole outweighs negative factors that are present, and you determine to authorize parole, you should also determine whether it is appropriate to place conditions on the parole.

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).

The regulation specifies that Officers should apply reasonable discretion when deciding whether to require such assurances. The specific documentation required to fulfill any conditions that the Officer believes should be required and the procedures to follow in conditional parole cases are discussed in greater detail in the Parole Procedures Manual.

3.3 Evidence

4.3.1 Gathering Evidence

In order to determine whether the beneficiary is eligible for parole, you should review and evaluate all the evidence in the record. The parole application and all supporting documents are evidence. Since interviews are rarely¹⁰ conducted for parole cases, you will need to rely on the documentary evidence in the file, such as the application, written statements or affidavits, or letters from expert. Evidence also includes any materials that you may discover during the course of adjudicating the parole request, such as medical

¹⁰ For certain special parole programs not covered in these materials, interviews are routinely conducted for parole applications, such as for Cuban Medical Parole Professionals and 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.

research, country conditions materials, results of required background/security checks, or other relevant information.

4.3.2 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.¹¹

For example in a family-related parole request where the petitioner is seeking parole for his mother to visit his sister in the United States before she passes away, material facts would include the type and nature of the family relationship, the existence and severity of the medical situation, and the existence of an acceptable sponsor. These facts are considered “material,” because they affect whether parole authority should be exercised favorably. An example of a non-material fact in the above case scenario is that the sponsor is not a family member, because while the ability for the beneficiary to be supported in the United States is a material fact, the relationship of the sponsor to the beneficiary is generally not.

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.¹² Examples of relevant pieces of evidence pertaining to the example above are:

- civil documents such as a birth certificate or marriage certificate that establishes the family relationship;
- a letter from the sister’s attending physician providing a detailed diagnosis that establishes the end-of-life 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 help to establish or undermine an asserted material fact, that evidence is irrelevant. You should not rely on speculative or irrelevant evidence in determining whether the applicant should be authorized parole. An example of irrelevant evidence in this scenario would be 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.

¹¹ See Federal Rules of Evidence, Rule 401; see also “Notes of Advisory Committee on Proposed Rules.”

¹² Federal Rules of Evidence, Rule 401; see also RAI0 Training Module, *Evidence*, section on Types of Evidence.

It is important to remember that any decision that you make should be based on material facts that are supported by the evidence in the record. All relevant evidence should be considered in your analysis, even if it makes reaching a decision more difficult.

4.3.3 Determining Credibility of Evidence

Once you have determined that a piece of evidence is relevant, you should also determine whether the documentary evidence present in a case is credible (i.e., reliable or believable). In analyzing credibility, you 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 your background and security vetting or through research you conducted. If you discover inconsistencies that lead you to question the credibility of the evidence, you may issue a request for evidence (RFE), a notice of intent to deny (NOID), or denial, depending on the circumstances. Material inconsistencies will generally warrant a RFE, NOID or denial, whereas a minor inconsistency that would have little to no bearing on your decision-making may not warrant such a step. See IO Parole Procedures Manual for detailed guidance on issuing RFEs, NOIDs, or denials.

4.3.4 Burden of Proof

A USCIS officer considers 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 adjudicator weighs the material evidence in the record. Although the petitioner has the burden of proof, it is up to you to determine whether it is appropriate to issue a request for evidence to obtain additional relevant evidence not submitted with the application. For information on the RFE process, please consult the IO Parole Procedures Manual.

4.3.5 Standard of Proof

Standard of proof refers to “the degree or level of proof demanded in a specific case.”¹³ 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.”¹⁴ 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. Common types of evidence received in parole cases are discussed below.

4.3.6 Common Forms of Evidence in Parole Cases

Forms of evidence submitted by the petitioner that you might commonly encounter include, but are not limited, to the following:

- Copy of an official photographic identity document for all parties to the parole request (petitioner, sponsor, and beneficiary) that shows the individual’s photograph, name, and place and date of birth. The purpose of this document is to confirm the identity of the individual, as well as his or her immigration and citizenship status, where applicable. Examples of such identity documents may include, but are not limited to: a valid passport; Form I-551 *Permanent Resident Card*; a national ID card; or an ID card issued by a non-government entity, such as an employment, school or organization/association ID. You should distinguish between those identity documents that may be used to prove identity and those that merely establish the applicant’s association with the issuing entity. The copy of the identity document should clearly show the photograph and identity information. Form I-94-Arrival/Departure record is not acceptable as a photographic identity document but may be accepted to confirm the immigration status of an individual.
- Statement that provides a complete description of the urgent humanitarian reason or the significant public benefit, explaining why parole should be authorized and the length of time for which parole is requested.
- Statement explaining why a U.S. visa cannot be obtained, including when and where attempts were made to obtain a visa.
- Statement explaining why a waiver of inadmissibility cannot be obtained to allow issuance of a visa, including when and where attempts were made to obtain a waiver, and a copy of any DHS decision on the waiver request.
- Copy of any decision on an immigrant petition filed on behalf of the beneficiary and evidence regarding any pending immigrant petition, such as Form I-797 receipt or approval notices (e.g., an approved I-130).

¹³ *Id.*

¹⁴ See RAIO CT Module: *Evidence Assessment*

- Proof of immigration status in the United States for the petitioner and sponsor, including birth certificates for native born citizens, U.S. passports, naturalization or citizenship certificates, or lawful permanent resident cards;
- Statements by other parties, including affidavits and letters submitted by family, friends, associates, or outside experts.
- Form I-134, *Affidavit of Support* noting sponsor's occupation and ability to provide support, including supporting documentation such as:
 - Statement from an officer of a bank or other financial institution indicating date account opened, present balance, and total amount deposited for the past year;
 - Statement from employer on business stationary showing date and nature of employment, salary paid, and whether the position is temporary or permanent;
 - If sponsor is self-employed, copy of last income tax return filed or report of commercial rating concern;
 - List containing serial number and denomination of bonds and name(s) of record owner; or
 - Evidence of other personal assets or ability to cover beneficiary's expenses and subsistence needs while in the United States.

Note: In certain instances, in lieu of Form I-134, *Affidavit of Support*, IO accepts a letter of commitment from an organization that intends to cover the financial expenses of a parolee. The letter must provide detailed information on the type of support to be provided and must ensure that it will be provided for the duration of the parole period or, in the alternative, until a sponsor files Form I-134 and supporting evidence;

- Copies of civil documents issued by government agencies including, but not limited to birth certificates, marriage certificates, divorce decrees, police records, DNA evidence, and death certificates that establish a claimed relationship or event;
- Where the minor beneficiary is traveling with one parent and the other parent will remain outside the United States,
 - Written authorization from the non-traveling parent for the minor to travel, to include:
 - Permission from the non-traveling parent for the child to accompany the traveling parent,
 - The duration of authorized travel, and
 - If the parents of the child are divorced or separated, proof showing that the traveling parent has been awarded legal custody of the minor.

- 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 issued by a government authority.
- Where the parent or parents' consent cannot be obtained,
 - Written explanation from the petitioner or beneficiary explaining efforts to locate the parent, or
 - The circumstances surrounding their unavailability, and
 - Evidence of guardianship for the person who is accompanying the child on travel or receiving the child once he or she arrives.
- Forms of evidence introduced by the Officer including, but not limited to, the following:
 - An existing A-file for any of the parties to the parole request;
 - Results of USCIS systems checks;
 - Results of mandatory security checks; and
 - Research conducted by Officers such as information pertaining to country-of-origin information and medical conditions;
- Other supporting evidence, which may be listed in sections 7-12 below, such as court documents for legal-based parole requests or medical documents for family-based requests in an end of life of situation.

4.3.7 Requests for Evidence (RFE)

As explained above, once the petitioner has met his or her burden of proof (i.e., the burden of production and the burden of persuasion), the adjudicator weighs the evidence in the record. However, it is up to you to determine whether to issue an 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. For example, in a parole case where the derogatory information in the record is such a strong negative discretionary factor that parole would not be authorized, you should not request additional evidence regarding the medical condition for which the applicant will receive treatment in the United States.

3.4 Derogatory Information in Parole Requests

Sometimes when conducting background and security vetting of parties to a parole request, you may find information that reveals that a petitioner or 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, you should consider the

nature of the criminal activity (if any), the relationship between the petitioner or sponsor and the beneficiary, the degree to which the beneficiary will be relying on the sponsor or petitioner for support in the United States, and 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 determines to exercise discretion in favor of granting parole despite the evidence of criminal activity or national security concerns associated with the petitioner, beneficiary or sponsor must receive second-line concurrence from the HAB Chief and should be brought to the attention of the Deputy Chief and/or Chief of IO before the decision is issued. Often the information discovered during security checks is classified and should be handled accordingly. For example, classified information should never be placed in an unclassified A-file.

The Program Integrity Branch (PIB) of IO should be contacted for assistance if and when you need to follow up with record holding agencies regarding derogatory information identified during background and security vetting.

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

3.5 Fraud in Parole Requests

You should examine all documentation presented in a parole request carefully and be mindful of the documents' authenticity. Petitioners do not need to submit original documentation with their parole requests; copies of documents are acceptable. Therefore, it may be difficult for you to notice the sharp details of the document being considered. 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 you to check the Department of State's website containing the Visa Reciprocity Table and Country Document information or to contact the Forensics Document Lab (FDL). This website provides information on civil document issuance in a wide variety of countries and you 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, you should determine the relevance, if any, to the parole request under consideration.

When you have identified a fraud indicator in the request, you should consult with the IO-FDNS unit and determine whether it is appropriate to submit a formal fraud referral to FDNS.

4 THE TYPES OF PAROLE REQUESTS RECEIVED AT IO

There are wide varieties of reasons that individuals request parole based on urgent humanitarian reasons or significant public benefit. The most commonly seen parole requests received and adjudicated by IO are requests based on medical reasons, family-based requests, and requests based on protection needs. Other less commonly seen parole requests include requests from individuals who failed to obtain required travel documents prior to departing the United States, individuals participating in legal proceedings in the United States, and requests from individuals seeking parole for adoptive children, among others. All the possible reasons for requesting parole cannot be fully anticipated or addressed in this guidance. For all parole requests, you should be sure to follow the general analytical framework discussed in Section 4.3 above. In addition, it is helpful for you as an Officer to understand any case-specific considerations. The following sections of the lesson plan provide guidance on adjudicating the various types of parole requests, including discussion of the factors that go to urgent humanitarian reasons or significant public benefit, factors relevant to discretion, and types of evidence specific to the parole requests.

4.1 Requests Based on Medical Reasons

A request based on medical reasons exists when the *beneficiary*, or person coming to the United States, needs to receive some sort of medical treatment. Parole requests based on medical reasons generally fall into two categories:

1. An individual (the beneficiary), outside the United States is in need of medical treatment in the United States.
2. An individual (the beneficiary), outside the United States, intends to receive medical treatment to serve as an organ donor for an individual in the United States.

The factors to consider when adjudicating medical parole requests will vary depending on which of the two categories above apply. Additional information on each category is provided below.

Often, when adjudicating requests for parole based on medical reasons, you will encounter complex medical terminology and be presented with information on a variety of medical conditions difficult for a layperson to understand. It is important to remember that you are not a medical expert and that you will need to rely on the expertise of medical professionals to have an informed opinion about a medical condition. Unless there are indications of fraud, you generally should not second-guess the opinions of medical experts included in the record. However, you do need to have a basic non-scientific understanding of what the medical condition is in order to evaluate whether the request based on the medical condition constitutes an urgent humanitarian reason or significant public benefit. If you are unfamiliar with the medical condition identified, and the evidence in the record does not provide sufficient clarifying information to properly evaluate the claim, you should conduct research to gain a better understanding of the medical condition, in order to adjudicate the parole request or to request additional medical information in a RFE. Below are a number of helpful online resources you may consult for basic information on medical conditions including, but not limited to:

- National Institutes of Health – <http://health.nih.gov/>
- Merck Manual- <http://www.merck.com/mmhe/index.html>
- WebMD- <http://www.webmd.com/>
- Mayo Clinic-<http://www.mayoclinic.com/>

Accordingly, conducting research on medical conditions cannot substitute for specific supporting medical documentation from a treating physician or medical institution pertaining directly to the beneficiary or patient associated with the parole request.

You may also want to conduct research to verify that the individual who has provided medical information is indeed a licensed medical professional. In certain circumstances, it may be appropriate to issue a request for evidence to obtain additional documentation or information regarding the qualifications of the medical professional or the specifics of a medical condition as it relates to the beneficiary or individual in the United States.

4.1.1 Medical: Request Based on Need for Medical Treatment

This category involves individuals who require some type of medical treatment in the United States. Generally, an individual who requests parole under this category has been diagnosed in his or her home country, and a doctor in the United States is willing to provide treatment that is either not available or not accessible in the individual's home country. Parole is often requested for the duration of treatment, including the post-treatment recovery period.

Factors that are relevant to Urgent Humanitarian Reasons Analysis

Apart from factors relevant to all parole cases in determining urgent humanitarian reasons, factors specific to parole requests based on need for medical treatment include:

Nature and Severity of the Medical Condition

A critical factor that you should consider in evaluating whether there is an urgent humanitarian reason for medical treatment in the United States is the nature and severity of the medical condition for which treatment in the United States is sought. This information can assist you in determining how the medical condition affects the patient's life and the consequences to the patient if the medical treatment is not received. Often, information regarding the severity of the illness or nature of the condition will inform how immediate, and therefore how urgent or time sensitive, is the need for medical treatment. For example, a beneficiary's condition may be so critical in nature that failure to treat it within a certain window of time would result in permanent harm, disability, disfigurement, or have other life-altering consequences.

Availability of Medical Treatment in Countries Other than the United States

You should examine whether the specific medical treatment needed by the beneficiary is available and reasonably accessible to the beneficiary in his or her country of residence or another country outside of the United States. You should look at the adequacy of the treatment and what attempts, if any, the beneficiary has made to obtain such treatment. If the petitioner or beneficiary asserts that the quality of care available in a country outside the United States is not on par with U.S. medical standards, then you should examine whether he or she has provided evidence to establish the difference in the quality of care or treatment, and whether it would have a serious impact on the applicant's quality of life or recovery.

In evaluating whether an urgent humanitarian reason exists, you should keep in mind that, even though the treatment may be available in the beneficiary's country of residence or another country outside the United States, it might not be reasonably accessible. Factors to consider include whether entry requirements for the country are restrictive; whether treatment is only available to a select few; the availability of a strong support system; the cost-effectiveness of treatment; or new innovative treatment options that would more effectively treat the medical condition. Urgent humanitarian reasons generally are not established simply because it is more convenient for the beneficiary to seek treatment in the United States than in other countries; however, the beneficiary should not be required to show that obtaining treatment in the United States is the last resort or that there is no other country in the world where the beneficiary could obtain treatment. The issue of the beneficiary's ability to obtain treatment in another country may come up, for example, if there is evidence that the beneficiary previously sought and received appropriate treatment in a third country. You should consider, on a case-by-case basis, the totality of the circumstances to determine whether urgent humanitarian reasons exist and whether the applicant has access to adequate medical care in his or her country of residence or in another accessible or nearby country.

Note: If the individual seeking treatment in the United States is an unaccompanied minor, evidence of legal guardianship arrangements in the United States, parental or guardian authorization for the child to travel unaccompanied to the United States, and consent to obtain required medical treatment should be provided prior to authorizing parole.

Follow-up or Post Treatment Care

Generally, you will evaluate the need for parole to obtain follow-up or post-treatment care in the context of a re-parole application or when you are trying to determine the duration of the original parole. When considering requests where the beneficiary requires post-treatment care, you should look to see whether it constitutes an urgent humanitarian reason as discussed above, including why the required care cannot be provided in the beneficiary's home country or another country accessible to the beneficiary.

Factors that are relevant to Significant Public Benefit Analysis

In the medical context, more so than other types of parole requests, you may see parole requests for medical reasons where the petitioner may demonstrate a significant public benefit. The request may assert urgent humanitarian reasons, and not necessarily assert that there is a significant public benefit to paroling the individual to the United States, so you will need to examine the medical evidence to determine if there would be significant public benefit, instead of, or in addition to, urgent humanitarian reasons. Although you should remain cognizant of factors that may help establish significant public benefit, you are not expected to have medical expertise or an in depth knowledge of medical and scientific procedures.

An example would be if a hospital or research institute submitted an application for parole for an individual to come to the United States to participate in a novel medical trial or study that would ultimately benefit the public at large. In these types of cases, you should look to the evidence in the record from the hospital or research institute, such as the nature of research that may help you in evaluating the degree to which the trial or study furthers scientific research, and therefore parole of the beneficiary into the United States may result in significant public benefit.

Factors that are relevant to the Exercise of Discretion

In addition to the general discretionary factors discussed in 4.3.2 above, the factors below, where present, should be considered in the discretionary analysis of parole requests based on medical need:

- Evidence that a physician or medical facility has been identified, has assessed the medical situation, and has agreed to treat the person in need of parole:
 - Look to see whether the physician or facility in the United States has examined the medical records of the patient in determining an appropriate course of action. This goes to whether the purpose of parole is likely to be accomplished and within what time period;
- The estimated length of time needed for the entirety of the medical treatment, trial or study should be considered, including any follow-up treatment:
 - Look to see whether the length of time needed is a year or less, more than a year, or life-long. This information will help you determine whether or not the purpose of the parole may be accomplished within the authorized parole period; and
 - If additional care outside of the medical facility is required, you should look to see if there is someone who will be able to provide adequate care, such as a family member in the United States or a paid caregiver;

- The proposed cost of treatment including doctor's fees, hospital fees and all medical related expenses and evidence that all medical costs and other financial obligations associated with the beneficiary's stay will be covered if paroled into the United States for medical reasons:
 - This includes determining whether the individual has access to health insurance in the United States or has the financial resources to cover all expenses. Private donors, hospitals, institutes, and non-profit organizations (NGOs) may donate resources, services, or offer other forms of support.

On occasion, a parole request may involve a beneficiary that has an undiagnosed condition, i.e., physicians in the beneficiary's home country are unable to diagnose the beneficiary's illness. In such situations, the applicant may be seeking to enter the United States to obtain a diagnosis and possible treatment because advanced diagnostic testing and technology may be more readily available in the United States. In such situations, the petitioner or beneficiary may not be able to establish the criteria above. You should evaluate the impact of the illness on the beneficiary's life and wellbeing, whether the beneficiary has exhausted all medical resources in his or her country, whether a medical institution in the United States has reviewed the beneficiary's medical records and is willing to provide initial diagnostic testing, and whether a cost estimate is provided.

8.3.3 Evidence

Apart from evidence generally required in all parole cases, specific evidence to establish the need for an individual overseas to obtain medical treatment in the United States may include, but is not limited to the following:

- Documentation from a physician in the country of beneficiary's residence, who has examined the beneficiary, should provide the following information:
 - A diagnosis of the beneficiary's medical condition;
 - The treatment needed to address the condition; and
 - The reason the beneficiary requires treatment in the United States, including whether the needed treatment is available and accessible to the beneficiary in the beneficiary's country of residence or another country outside the United States;
- Documentation from a physician or medical facility in the United States that provides the following information:
 - Agreement to provide specific treatment for the identified medical condition of the beneficiary;
 - The length of time the beneficiary will need to be in the United States to receive treatment as well as any requisite follow-up treatment, to include

- whether the beneficiary will require assistance post-treatment such as by a caregiver; and
- The cost of treatment (including doctors' fees, hospitalization fees, and all medical-related expenses):
 - Documentation establishing how the cost of the medical treatment (both in the hospital and as an out-patient) and any other associated costs such as medical prescriptions, therapies, equipment, transportation will be covered, whether by insurance, personal funds, or other means.

Panel Physician Requests

A panel physician is a medically trained, licensed and experienced doctor practicing overseas who is appointed by the local U.S. Embassy or Consulate. These medical professionals receive U.S. immigration-focused training in order to provide examinations as required by the CDC (Center for Disease Control and Prevention) and USCIS. Their role generally is only to evaluate an individual for health conditions that may implicate inadmissibility grounds. For parole adjudications, panel physicians should not be used to verify the medical condition of the beneficiary, without your Supervisor's concurrence.

4.1.2 Medical: Request Based on Need to be an Organ Donor

This category involves requests from individuals who are seeking to enter the United States to be an organ donor to an individual in the United States. Organ donor cases are often compelling and urgent in nature and involve complex issues.

The Organ Transplant Process

Organ transplantation is the process of surgically transferring a donated organ into a patient with end stage organ failure. Each recipient must be pre-screened and evaluated to determine if he or she is a candidate for an organ transplant. Once a recipient is approved as a candidate for transplant, he or she will be placed on the Organ Transplant Waiting List¹⁵. This listing is required for all recipients even if the interested donor is a relative. Once on the list, the transplant center will begin to test interested donors. Each interested donor is also prescreened to determine if he or she could be a match. This process can last anywhere from 4-6 months.

¹⁵ In 1984, the National Organ Transplant Act of 1984 established the Organ Procurement and Transplant Network (OPTN), a national organ sharing system to guarantee, among other things, fairness in the allocation of organs for transplant. Since 1984, the nonprofit United Network for Organ Sharing (UNOS) located in Richmond, Virginia, has operated the OPTN, under a contract with the Division of Transplantation in the Department of Health and Human Services. UNOS maintains a central computer network containing the names of all patients waiting for kidney, heart, liver, lung, intestine, pancreas and multiple-organ transplants, known as the Organ Transplant Waiting List.
<http://www.organtransplants.org/understanding/unos/>
<http://optn.transplant.hrsa.gov/>

Factors that are relevant to Urgent Humanitarian Reasons Analysis or Significant Public Benefit Analysis

Apart from factors relevant to all parole cases in determining urgent humanitarian reasons, factors specific to parole requests related to organ transplantation are:

- Whether the transplant recipient has been evaluated by the transplant center;
- Whether the transplant recipient been approved as a candidate for transplant;
- Whether the transplant recipient has been placed on the Organ Transplant Waiting List;
- Whether the identified donor living overseas has been identified by the transplant center as a potential match through medical testing.

Factors that are relevant to the Exercise of Discretion

In addition to the discretionary factors generally applicable to all parole cases, organ donor requests also require consideration of the following factors:

Health Insurance Coverage

An import discretionary factor is the petitioner's ability to cover the cost of the otransplant surgery in the United States. Transplant expenses are usually covered by the recipient's health insurance, including the donor's evaluation and hospitalization. Some hospitals may require that the interested donors carry their own individual health insurance in the United States just in case an issue of coverage arises. Some hospitals may require that the interested donors have health insurance in their home country. In examining health insurance coverage, it is important to determine whether the organ donor recipient's health insurance covers post-surgery complications for the recipient as well as the donor.

Organ Buying and Selling

Another factor is whether the donor is being paid or receiving any other form of compensation such as the promise of a visa to the United States. The buying and selling of organs is prohibited and a donor may not receive money or gifts in exchange for an organ. Individuals must agree to serve as donors voluntarily, with full knowledge and disclosure of the process. You should be cognizant of any red flags that may indicate that the donor or recipient are engaged in organ buying or selling. If so, this would be a strong negative discretionary factor.

Evidence

Apart from evidence generally required in all parole cases, including evidence listed in the section above, specific evidence to establish the need for an individual overseas to be an organ donor in the United States may include, but is not limited to, the following:

- A letter from the transplant center stating that the individual in the United States has been placed on the organ donor list; and
- Medical records for the beneficiary as well as a letter from the transplant center indicating that the beneficiary is a match.

4.2 Family-based Parole Requests

Family-based parole requests are made for a wide variety of reasons and comprise a large percentage of parole applications IO adjudicates. Generally, these types of cases involve a family member who desires to be united with other family members in the United States either temporarily or permanently. Sometimes, the desire for family unity is the only reason the petitioner is requesting parole; other times, it is coupled with another purpose such as medical need or need for protection.

Most family-based parole requests fall into two broad categories. The first category is parole requests based on *family-related* reasons where the requests are typically for the beneficiaries to be present in the United States temporarily. The second category of family-based parole requests is for purposes of *family-unity* and the requests are typically for the beneficiaries to be present in the United States permanently. The distinctions between these two common types of family-based parole requests are discussed in detail below.

Note that Officers have discretion when determining who constitutes a family member. For example, while family members are usually related by marriage, birth, or adoption, the Officer may consider a same-sex partner or children of a same-sex partner as a family member, in particular if the beneficiary is from a country where same-sex marriage is not legal.

4.2.1 Family-based Parole Requests: Family-Related Reasons

A parole request for family-related reasons generally involves either a request to visit, assist, or support a relative in the United States in some capacity, to attend the funeral of a family member in the United States, or to settle the affairs of a deceased relative. These types of requests are typically for a temporary stay in the United States, as the beneficiary intends to depart the United States once the purpose of the parole request is accomplished. Additional information on the nature of these family-related parole requests is discussed below.

Request to Visit, Assist, or Support a Relative in the United States

These requests generally either involve individuals requesting to visit relatives who have a serious medical condition, who are at an end of life stage (such as individuals in advanced stages of a medical condition who are receiving hospice care) and are in need of support. On the other hand, a request may involve individuals requesting to visit relatives who have other compelling non-medical needs for assistance or support. The

parole request may be for the benefit of the individual in the United States or for the benefit of the individual overseas, or both. For example, a critically ill or injured daughter in the United States may need the presence of her mother for emotional support. As such, the benefit would be to the daughter in the United States during her recovery period and likely for the mother as well. In this same scenario, if the daughter in the United States is in a coma, with little or no chance of recovery, there may be no apparent benefit to her, but it may provide comfort, closure, and emotional support to the beneficiary (mother) to visit her daughter.

Other requests under this category may go beyond the need for emotional support and may involve individuals in the United States with a medical condition who require some form of non-medical assistance. For example, an individual in the United States who has a high-risk pregnancy and must remain on bed rest until giving birth may request parole for a family member overseas to assist in caring for her or her young children while she is incapacitated and has no other family or assistance in the United States.

Request to Deal with Affairs of Deceased Relative in the United States

These are parole requests for a family member residing overseas to come to the United States to address issues related to the death of a family member, including but not limited to attending the funeral, settling financial and legal affairs of the deceased family member, and handling any other estate matters.

Factors that are relevant to Urgent Humanitarian Reasons Analysis or Significant Public Benefit Analysis

Apart from factors relevant to all parole cases in determining urgent humanitarian reasons, factors specific to family-related requests for parole include the following.

Availability of Assistance or Support in the United States

In assessing whether there is an urgent humanitarian reason for an individual to be paroled into the United States to visit, assist, or support a family member in the United States, you should assess whether there is anyone else in the United States, a family member or another individual, who can fulfill the need for which parole is requested. If there are other potential care providers present in the United States, you should assess whether any of these family members or alternate care providers are reasonably available and competent to fulfill the need for which parole is requested. If there is no one else in the United States who is reasonably available and competent to provide the care, and failure to obtain such care would result in permanent harm, disability, or disfigurement or have other life-altering consequences, then urgent humanitarian reasons may be established.

In evaluating whether another family member or alternate caregiver is reasonably available and competent to provide the needed assistance or support, you should

consider the totality of circumstances, such as whether providing assistance and support would be unduly burdensome because of work, family or other commitments or whether it would present a financial hardship. If provision of such services would be unduly burdensome for another friend or family member to provide, then you should consider whether it is possible for the individual in need of assistance or support to be able to hire someone to fulfill the need for the parole request, taking into account the cost and the individual's financial situation.

Finally, it is important not only to consider the physical and practical aspects of care giving but also to take into account the emotional component of providing support, depending on the circumstances. The person seeking parole may have a relationship with the applicant needing care that would make a significant qualitative difference in the type of care provided. For example, an individual receiving hospice or palliative care may benefit from emotional support and care provided by a close family member during his or her final stages of illness. Alternatively, the individual requiring care may need assistance with simple but private tasks that only a close family member or friend would be able to provide.

It is important to remember that ultimately the burden is on the petitioner to establish that there is no one else reasonably available to provide the appropriate assistance and support, which would include explaining the reasons the individual could not hire a caretaker or why a caretaker would not be appropriate, such as with private tasks.

Need for Multiple Caregivers

Under certain circumstances, one or more family members may request parole to accompany the beneficiary serving as a caregiver, such as minor children accompanying a parent or a spouse with a medical condition. In those situations, you should consider whether there is anyone in the beneficiary's home country who could care for the family members in need of care if left behind or whether they may be at risk of harm if left behind.

In other situations, due to the medical condition of the individual in the United States, post-treatment care may be so intensive, that it may require more than one caregiver.

Factors that are relevant to the Exercise of Discretion

In addition to the standard discretionary factors that one would consider in any parole case, in caregiver cases, you would also consider whether the caregiver has a place to live, has a reliable mode of transportation, if required, and is physically and mentally capable of providing the level of support needed by the individual in the United States.

Evidence

Apart from evidence generally required in all parole cases, specific evidence to establish the need for an individual abroad to visit, assist, or support an individual in the United States may include, but is not limited to the following:

- Documentation from a physician or medical facility in the United States that provides a medical diagnosis and prognosis for the individual in the United States as well as detailed information regarding the type of care required, including the nature and frequency of care, and whether a caregiver is required before medical treatment can proceed;
- A listing of all family members in the United States and why they are not able to provide care to the individual receiving medical treatment; and
- A statement explaining why other alternatives, such as hiring a caregiver, are not reasonable alternatives.

Although the petitioner has the burden of proof, it is up to you to determine whether to issue an RFE to obtain additional relevant evidence not submitted with the application.

5.2.2 Family-based Parole Requests: Family-unity

The most common type of parole request in the family-unity context involves a family member overseas who seeks to join a family member in the United States, or to enter the United States with an immigrating family member prior to completion of his or her immigrant visa process, or other process by which he or she may obtain nonimmigrant or immigrant status. For example, the beneficiary of an immigrant visa that has become current may request parole for his or her minor child or adult child with special needs who would be left behind without alternate means of care if the parents were to immigrate to the United States. Often the individual for whom parole is requested has a family-based immigration petition pending with or approved by USCIS. However, unless the individual is an immediate relative of a U.S. citizen (i.e., unmarried child, spouse, or parent) there is generally a substantial waiting period before an immigrant visa number becomes available, as Congress has limited the number of relatives who may immigrate to the United States under certain family-based categories each year. In these situations, the individual is requesting parole so that he or she does not have to wait outside the United States for his or her visa number to become current and be reunited with family.

Need for Spouses, Children or Grandchildren of Refugees and Asylees to be Present in the U.S. Pending the Ability to Obtain Lawful Immigration Status

This type of family-unity parole request is a subset of the previous category, involving a need for family unity with individuals who have asylum or refugee status in the U.S. The INA provides for the admission of spouses and unmarried children under 21 (“derivatives”) of asylees and refugees, as well as lawful permanent residents who received such status after being admitted as a principal refugee or granted asylum. The I-730, *Refugee/Asylee Relative Petition*, is the form through which the asylee or refugee may petition for his or her family member residing overseas. The three main I-730 eligibility requirements are: 1) the Form I-730 must be filed within two years of the date

on which the petitioner was admitted into the United States as a refugee or was granted asylum status¹⁶; and 2) the relationship of a spouse or child to a principal asylee or refugee must have existed *prior* to the date the asylum application was approved or the date the principal was admitted to the United States as a refugee, and 3) no bars and inadmissibility grounds apply. You may encounter parole requests from the following categories of individuals who do not qualify as beneficiaries under the I-730 process and for whom parole is requested to maintain family unity:

- A spouse of a refugee or asylee who married the principal after he or she was granted asylum status or admitted to the United States as a refugee; or
- A same sex partner of a refugee or asylee who was unable to marry the principal under the laws of their former country of residence; or
- A child who was conceived *after* the principal's grant of asylum or *after* the principal's admission to the United States as a refugee.
 - Sometimes an asylee or refugee will return to a third country to visit a spouse who has not yet been able to join the principal in the United States, and during that time together, a child is conceived. The child would not qualify for an I-730 unless the child was in utero at the time of the asylum grant or refugee admission; or
- A grandchild of a principal asylee or refugee (i.e., a child of a derivative asylee or refugee).
 - Occasionally, a derivative asylee or refugee may be under 21 and unmarried, but may also have a child. This child would be the grandchild of the principal asylee or refugee and therefore not eligible to come to the United States under the I-730 process. The grandchild may thus be left behind without a parent or alternate caregiver; parole may be the only alternative for the child to accompany the parent to the United States; or
- A child of a refugee or asylee who gets married prior to the date the principal is granted asylum status or the refugee is admitted as a refugee.
 - Once married, the derivative no longer qualifies for an I-730 as a "child."

Factors that are relevant to Urgent Humanitarian Reasons Analysis or Significant Public Benefit Analysis in Family-Based Parole Cases.

The factors that are relevant to urgent humanitarian reasons or significant public benefit vary depending on the type of family-based request (i.e., whether it is a parole request that is family-related or based on family-unity), and therefore the factors are relevant to urgent humanitarian reason are discussed separately below.

¹⁶ The 2-year limitation may be waived by USCIS for humanitarian reasons. See instructions for Form I-730, *Refugee/Asylee Relative Petition*

Relationship between Family Member in the United States and the Beneficiary Overseas

For any family-based parole request, it is important to confirm that a valid relationship exists between the beneficiary outside the United States and the family member in the United States.

An important factor that goes directly to urgent humanitarian reason is the type and nature of the familial relationship between the individual residing outside the United States and the family member(s) in the United States. The type of relationship refers to whether the beneficiary is the parent, child, spouse, niece, grandparent, etc. of the family member in the United States. In the family-related parole context, generally, the closer the relationship, the more weight you would give it when determining when an urgent humanitarian reason exists. For example, one generally would consider it more important for a close relative such as a child to attend the funeral of a parent, rather than a nephew. However, it is equally important to take into account the nature of the relationship between the family members. There could be a situation in which a nephew was raised by an uncle, or had a very close relationship with an uncle such that the nephew held an equivalent relationship to an uncle as a child would have to a parent.

While it is normally safe to assume that a parent/child or spousal relationship is very close, if there is evidence in the record that indicates the nature of the relationship is not close, then that evidence must also be taken into consideration when determining whether an urgent humanitarian reason is present.

Factors that are relevant to Urgent Humanitarian Reasons Analysis or Significant Public Benefit Analysis for Family-Related Cases

Apart from factors relevant to all parole cases in determining urgent humanitarian reasons or significant public benefit, the following factors should be considered:

Nature and Severity of the Medical Condition and/or Need for Assistance

A critical factor that you should consider in evaluating whether there is an urgent humanitarian reason for an individual to be paroled into the United States to visit or provide assistance and support to a family member who is critically ill or injured, or who is at an end stage of life, is the nature and severity of the medical condition of the individual in the United States. This information can assist you in determining how the medical condition affects the patient's life or the life of the beneficiary and the consequences to the individual if the visit and/or assistance and support are not provided. For example, the more critical a patient's medical condition, the greater the likelihood that you would find the need for the patient's son or daughter to visit, to constitute an urgent humanitarian reason for parole. Often information regarding the severity of the illness or condition will inform how immediate, and therefore urgent or time sensitive, the need for the

presence of the family member is and whether it is needed immediately, or in the weeks or months ahead.

Type of Assistance or Support Needed

In determining whether the petitioner has established urgent humanitarian reasons for parole, you should examine the type of assistance and support the beneficiary seeking to enter the United States would provide the individual in the United States, and how soon that care is needed (immediately or sometime in the distant future, which goes to the urgent or time-sensitive element). You should not only consider the physical and practical assistance and support needed but should also take into account the emotional component of providing support, depending on the circumstances. The person seeking parole may have a relationship with the individual in the United States that would make a significant qualitative difference in the type of care provided. For example, an individual receiving hospice or palliative care may benefit from emotional support and care provided by a close family member during his or her final stage of life.

Availability of Assistance or Support in the United States

In assessing whether there is an urgent humanitarian reason for an individual to be paroled into the United States to visit or assist and support a family member, or to deal with the affairs of a deceased relative in the United States, you should determine whether there is anyone else in the United States, family member or other individual, who can fill the need for which parole is requested. If there are others present in the United States, you should assess whether any of these family members or alternate care providers are reasonably available and competent to fulfill the need for which parole is requested. If there is no one else in the United States who is reasonably available and competent to provide the assistance or support needed, then urgent humanitarian reasons may be established.

In evaluating whether another family member or friend is reasonably available and competent to provide the needed assistance or support, you should consider the totality of circumstances, such as whether providing assistance and support would be unduly burdensome because of work, family, or other commitments or whether it would present a financial hardship. If provision of such services would be unduly burdensome for another friend or family member to provide, then you should consider whether it is possible for the individual in need of assistance or support to be able to hire someone to provide the support, taking into account the cost and the individual's financial situation.

Finally, it is important to take into account the emotional component of providing support, depending on the circumstances. The person seeking parole may have a relationship with the applicant needing assistance or support that would make a significant qualitative difference in the type of support or care provided. For

example, a mother who is at an end of life situation may require the comfort and support of a spouse or child, even if she has siblings residing nearby.

Factors that are relevant to Urgent Humanitarian Reasons Analysis or Significant Public Benefit Analysis for Family-Unity Cases

Apart from factors relevant to all parole cases in determining urgent humanitarian reasons or significant public benefit, the following factors should be considered:

Family Unity

Family unity in and of itself does not constitute an urgent humanitarian reason for parole nor does it present a significant public benefit. Parole is not intended to be used as a vehicle to circumvent normal visa-processing or statutory provisions governing family-based visas. As such, a parole request based solely on the desire for family unity generally will not constitute an urgent humanitarian reason; however, family unity is a factor to take into account in evaluating the totality of the circumstances.

Presence of Particular Vulnerability

You should determine whether there is evidence that the family member in the United States or outside the United States is particularly vulnerable due to age, disability, special needs, or any other reason that requires him or her to have the support of a family member in the United States.

The beneficiary's vulnerability itself does not constitute an urgent humanitarian reason for parole. You should consider the totality of the circumstances, including the circumstances surrounding the vulnerability and whether concerns raised by the vulnerability of the beneficiary may be addressed where the beneficiary currently resides, or if there are other viable and appropriate ways to address the vulnerability, other than through parole into the United States.

Factors that are relevant to the Exercise of Discretion in Family-Based Parole Requests

In addition to discretionary factors generally present in all parole requests, discretionary factors specific to family-based parole requests include:

Whether the Purpose of Parole may be Accomplished within a Temporary Period of Time

In family-unity or family-related cases, often an important discretionary factor is whether the purpose of parole may be accomplished within a temporary period of time. In family-related cases where the beneficiary is coming in for a specific event, such as to see or assist a dying relative, settle the affairs of the deceased's estate, or attend a funeral, an applicant's ability to establish a relatively certain, limited time frame for which he or she will need to be in the United States, such that the beneficiary may complete the purpose of the parole during the duration of

the parole status, is a positive discretionary factor. A petitioner's inability to establish that the purpose of the parole may be achieved in a relatively certain, limited period presents a negative discretionary factor.

In parole requests based on the need for family unity, you should look to see if there is a path for the paroled individual to immigrate or obtain other lawful immigration status to determine if the parole would be temporary. Generally, when looking to see whether the beneficiary will have a means to regularize status, you should consider whether the beneficiary has a pending or approved I-130 or another immigrant or nonimmigrant application or petition. An approved I-130 for the beneficiary presents stronger evidence of intent and ability to regularize status than does a pending I-130. However, the existence of either should be considered a positive discretionary factor when the articulated purpose of parole relates to family unity. Either could be a negative discretionary factor for a request that is not based on family unity, to the extent it may indicate that the beneficiary does not intend to leave the United States after accomplishing the purposes of the parole (such as medical treatment). In certain urgent or time sensitive circumstances, intent to file an I-130 for someone eligible to be a beneficiary of an I-130 may be sufficient to establish a path to regularize status. However, you should look to see whether there are exceptional circumstances beyond the individual's control that prevented him or her from filing the I-130 prior to requesting parole.

Once the petitioner has established there is a path, you then have to determine the length of time before the beneficiary can regularize status. A extensive period of time prior to ability to regularize status may decrease the weight given the positive discretionary factor that the beneficiary has a path to regularize status and, in fact, could become a negative factor. For example, the beneficiary's adult sibling may have an approved Form I-130, *Petition for Alien Relative* on behalf of the beneficiary, which would mean the beneficiary has a path to regularize status, but it may take 9-10 years before the process is complete, which is a negative factor, to be weighed against any positive factors in the case.

Having no foreseeable way for the beneficiary to regularize status is a negative discretionary factor when the beneficiary intends to reside permanently in the U.S.

The availability of an immigrant visa for preference categories and processing times for I-130s vary and can be determined by consulting the Visa Bulletin, which is updated monthly.

You should consider whether a parole beneficiary is inadmissible as one factor in the totality of the circumstances. Although the inadmissibility grounds are not legally applicable to applicants for parole, when determining whether a parole beneficiary has the ability to regularize status after being paroled as a factor in the

exercise of discretion, the applicability of the various inadmissibility grounds are relevant to the parolee's ability to regularize status in the future.

For example, a beneficiary's inadmissibility under INA § 212(a)(9)(A), (B) or (C) for prior unlawful presence and removal orders or under INA § 212(a)(6)(B) for failure to attend a removal hearing may delay his or her ability to adjust status or obtain an immigrant visa for three to 20 years or, in some cases, the beneficiary may remain permanently inadmissible and incapable of obtaining lawful permanent residence in the United States unless granted consent to reapply for admission. Consequently, the beneficiary's inadmissibility under those provisions will generally be a negative discretionary factor in family-related cases if the beneficiary will likely not be able to adjust status within the period of parole. Nonetheless, there may be situations so compelling that the beneficiary's inadmissibility may support the urgent humanitarian reason claim because parole is the only way the beneficiary will be able to come to the United States.

When a parole beneficiary is inadmissible, you should consider whether the beneficiary is eligible for and has or could be granted a waiver of, the applicable inadmissibility ground. In cases where the beneficiary is inadmissible under INA § 212(a)(9)(A) or (C) you should consider whether the beneficiary is eligible for or has been granted an exception to the inadmissibility through an approved Form I-212, *Application for Consent to Reapply for Admission*.

- INA § 212(a)(9)(A)

To receive this exception, an alien ordered removed and inadmissible under INA § 212(a)(9)(A) must file the Form I-212 from outside of the United States, but may do so at any time during the period of inadmissibility.

- INA § 212(a)(9)(B)

An alien inadmissible under INA § 212(a)(9)(B) for unlawful presence may seek a waiver by filing a Form I-601, *Application for Waiver of Grounds of Inadmissibility*, with USCIS.

- INA § 212(a)(9)(C)

An alien inadmissible under INA § 212(a)(9)(C) (for an aggregate year or more of unlawful presence or a removal order, and a subsequent entry or attempted entry without admission) may only file a Form I-212 after having spent more than 10 consecutive years outside of the United States since his or her last departure.

USCIS may waive the unlawful presence inadmissibility for an alien who is the spouse, son or daughter of a U.S. citizen or lawful permanent resident and who shows that denial of the waiver request would result in extreme hardship for the alien's U.S. citizen or lawful permanent resident spouse or parent. The alien must also demonstrate that he or she merits a favorable exercise of discretion.

If an inadmissible beneficiary appears eligible to file a Form I-212 or I-601, but does not submit evidence that a waiver was sought or an explanation why it was not sought or approved, you should issue an RFE to request and consider any explanation provided for not filing those forms to waive or except the beneficiary's inadmissibility, if an acceptable explanation could result in approval of the parole application.

When determining whether the beneficiary would be able to adjust status in the United States if granted parole, you should consider the following implications of his or her inadmissibility and any period of time spent in the United States under a grant of parole. Time in the United States during an authorized period of parole will count towards meeting the three or ten year period outside the United States for an alien who is inadmissible under INA § 212(a)(9)(B)(i) for unlawful presence. Similarly, the INA §§ 212(a)(9)(A) five, ten or twenty year bars and the 212(a)(6)(B) five year bar for failure to attend a removal hearing all continue to run during an authorized parole period; once the relevant inadmissibility ground's time period is over, the beneficiary is no longer inadmissible.

In contrast, for an alien permanently inadmissible under INA § 212(a)(9)(C)(i) for unlawful presence or a removal order and a subsequent entry or attempted entry without admission, the time of authorized parole in the United States will **not** count towards the required ten year period outside the United States. In addition, the alien will have to commence a new, ten-year wait outside of the United States upon departure at the expiration of the parole period before the alien may file a Form I-212 *Application for Consent to Reapply for Admission*.

Whether or not the time of authorized parole in the U.S. would count towards the bar applicable may be taken into account along with other factors under the circumstances of the individual case.

Evidence in Family-Based Parole Requests

In addition to the types of evidence generally required for all parole requests, evidence specific to or more commonly seen in family-based parole requests may include, but is not limited to the following, depending on the basis of the claim:

- The Form I-797 receipt notice or approval notice is evidence of the filing of an I-130, I-129F, I-601, I-212 or other immigration benefit request and helps establish the beneficiary's ability to regularize status. This evidence should be confirmed by conducting systems checks;
- Evidence of a beneficiary, petitioner, or sponsor's immigration history, goes to the beneficiary's ability to regularize status, as found in the following USCIS systems: CLAIMS, CIS, CCD, and EARM;
- Civil documents establishing the familial relationship (or in the case of same-sex partners in countries that do not recognize such relationships, other evidence

demonstrating nature of relationship, such as affidavits, copies of photographs, records of household members, etc.)

- Death certificate establishing the need for the applicant to attend the funeral of the individual in the United States;
- Letter from the funeral home listing the deceased's name and the date of the funeral service; or
- Letter from physician or hospice provider with a medical diagnosis and prognosis.

4.3 Requests Based on Need for Protection

Parole requests based on protection present some of the most difficult cases for Officers to adjudicate and typically involve compelling fact patterns of individuals outside the United States, who may genuinely be at risk of harm, even death, but for whom there may be no legal, timely, or accessible pathway to come to the United States.

There are various types of protection requests received by IO, however, the most commonly seen requests involve one or a combination of the following:

- natural disasters,
- civil conflict, or
- targeted harm.

Most protection cases are based on urgent humanitarian reasons rather than significant public benefit. However, a significant public benefit may also exist in addition to urgent humanitarian reason where, for example, the Department of State has requested parole for a human rights activist or political prisoner whose presence in the United States would advance U.S. foreign policy in promoting human rights.

Although parole requests based on the need for protection often present compelling circumstances, parole is generally not used for protection reasons for a few important reasons.¹⁷

There are programs in place where individuals may seek protection from harm through the United Nations High Commissioner for Refugees (UNHCR) or the U.S. Refugee Admissions Program (USRAP) while overseas, though only in certain nations, or through other aid organizations and efforts. Finally, USCIS has no operational ability to conduct an interview of a parole applicant to gather additional details about the need for

¹⁷ Note that INA § 212(d)(5)(B) states that the Secretary may not parole into the United States an alien who is a refugee unless the Secretary determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207. This generally means that parole should not be used to parole in someone for whom a formal determination has been made that the individual meets the definition of refugee, but cannot be admitted as a refugee. It generally is not applicable to the situations when someone seeks parole for reasons of protection from harm, but USCIS is not making a formal determination that the individual is a refugee.

protection and to assess his or her credibility firsthand, as is required with the U.S. Refugee and Asylum programs, prior to approving the request for protection. For all these reasons, where protection is the only basis for a parole request, you generally may authorize parole only in the limited circumstances discussed below.

The following sections provide guidance on factors to consider when adjudicating parole requests based on the need for protection. In parole requests based on the combined need for protection and family unity or medical reasons, you should analyze both claims in conjunction. As in any other type of parole case, you must decide each request on a case-by-case basis, taking into account the totality of the circumstances.

4.3.1 Natural Disasters

An individual who is affected by a natural disaster, such as a flood, earthquake, storm, fire, landslide, or tsunami, may be requesting parole because he or she has lost his or her home, is living in a camp for displaced persons or on the street, has little access to food and clean water, or has limited or no health care.

Factors that are relevant to Urgent Humanitarian Reasons Analysis

Apart from factors relevant to all parole cases in determining urgent humanitarian reasons or significant public benefit, the following factors should be considered:

Particular Vulnerability

Individuals with particular vulnerabilities may be at heightened risk of harm in the aftermath of a natural disaster. Examples of those who may be particularly vulnerable include female heads of household or single females, elderly individuals, unaccompanied children, individuals with physical or mental disabilities or those with particularly serious medical conditions and who are without parents or guardians, or other marginalized groups. For example, being homeless after a disaster may not pose the same threats to health and life for a healthy young adult as it would for an elderly person with a serious medical condition.

Living Conditions & Accessibility of Existing Relief Mechanisms

In situations of natural disaster affecting a large portion of the population in the applicant's country, you should consider the living conditions of the beneficiary. The fact that an individual is living in sub-standard and poor living conditions abroad, including camp conditions, does not necessarily establish that he or she is at risk of harm. You should look to see what post-disaster relief efforts are undertaken by the home country and the international community to assist the affected population and whether the individual's basic needs are being met, such as food, clean water, shelter, and adequate sanitation or will be met in the very near future. If any such mechanisms exist, you must evaluate whether the

beneficiary can reasonably access them and whether he or she has sufficient time to do so in order to avoid the harm feared.

Ability to Relocate

You should also consider whether the beneficiary could reasonably relocate or temporarily move to a different part of his or her home country, or a neighboring country to avoid harm. An individual who can secure adequate protection within their country, albeit a different part of the country, or in a neighboring country will have greater difficulty establishing an urgent humanitarian reason for parole, even if the individual faces harm in the current location.

Factors that are relevant to the Exercise of Discretion

As with all parole cases, the existence of an urgent humanitarian reason or significant public benefit is in itself a positive discretionary factor in protection cases. The severity and imminence of the harm feared may give additional weight to this factor, depending on the facts of the case. Often protection cases may overlap with issues related to family unity or the need for medical treatment. These additional bases for requesting parole may also present positive discretionary factors. You should consider all of the general discretionary factors that you would consider for other types of parole requests, such as past immigration violations, derogatory information discovered during security checks, ties to the United States, etc. For this type of protection request, you should take particular note of the duration of the parole request.

Duration of Parole Request

In all parole cases, when exercising discretion, you should look to see whether the need for parole is temporary in nature. A negative factor that is often present in natural disaster cases is that the petitioner is unable to establish that the need is temporary and has no apparent way to regularize status if paroled into the United States. For example, recovery from natural disasters may continue for years or decades. The fact that stability or significant recovery may eventually come to the beneficiary's country does not mean that parole will be temporary, as it may take decades to rebuild.

Evidence

In addition to the types of evidence generally required for all parole requests, evidence specific to or more commonly seen in parole requests based on the need for protection from natural disaster may include, but is not limited to the following, depending on the basis of the claim:

Country Conditions Information

In areas of natural disaster, an individual may be unable to provide much, if any documentation in support of his or her case. For this reason, a request for protection based on a natural disaster may require you to conduct research to evaluate the case merits in light of the known situation on the ground. In particular, you should research any evidence of development relief efforts and the locations of those services. One source of information on relief efforts undertaken in response to a natural disaster is Relief Web, a specialized digital service of the United Nations Office for the Coordination of Humanitarian Affairs (OCHA): <http://reliefweb.int/disasters>.

Particular Vulnerability

An applicant's particular vulnerability may be a significant factor in his or her parole request. If able, the applicant should provide evidence of this particular vulnerability. Examples of possible evidence include 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 station.

4.3.2 Civil Conflict

You may receive a parole request based on fear of harm due to generalized violence that occurs during a civil conflict. Examples of civil conflicts include ethnic, tribal, religious, or political violence, as well as war. This section of the guidance does not pertain to specific targeted harm, but to a fear of generalized harm shared by a significant segment of the general population. However, it is important to keep in mind that targeted harm or individualized risk of persecution may occur within the context of a larger civil conflict.

Factors that are relevant to Urgent Humanitarian Reasons Analysis

Apart from factors relevant to all parole cases in determining urgent humanitarian reasons or significant public benefit, the following factors should be considered:

Particular Vulnerability

Individuals with particular vulnerabilities may be at heightened risk of harm during a civil conflict. Examples of those who may be particularly vulnerable during civil conflict are similar to those who may be particularly vulnerable in the aftermath of a natural disaster, and include female heads of household or 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. For example, being homeless during a civil conflict does not pose the same threats to health and life for a healthy young adult as it would for an elderly person with a serious medical condition.

Living Conditions & Accessibility of Existing Relief Mechanisms

In situations of civil conflict affecting a large portion of the population in the applicant's country, you should consider the living conditions of the beneficiary. The fact that an individual is living in sub-standard and poor living conditions overseas, including camp conditions, does not necessarily establish that he or she is at risk of harm. You should look to see if relief efforts are undertaken by the home country or the international community to assist the affected population and whether the individual's basic needs are being met, such as food, clean water, shelter, and adequate sanitation. If any relief mechanisms exist, you must evaluate whether the beneficiary can reasonably access them and whether he or she has sufficient time to do so in order to avoid the harm feared.

Another factor relevant to the urgent humanitarian reason analysis in protection cases is the availability and accessibility of other protection measures. One form of international protection that may be available during prolonged civil conflict is refugee resettlement through the United Nations High Commissioner for Refugees (UNHCR) or the U.S. Refugee Admissions Program (USRAP). Other protective measures may include camps for internally displaced persons (IDPs) in other parts of the applicant's native country, and formal or informal refugee camps or resettlement options in neighboring countries with assistance from those countries' governments, NGOs or international relief organizations.

Ability to Relocate

You should also consider whether the beneficiary could reasonably relocate or temporarily move to a different part of his or her home country, or a neighboring country to avoid the harm feared due to generalized violence during a civil conflict. An individual who can secure adequate protection in his or her country, albeit a different part of the country, or in a neighboring country will have greater difficulty establishing urgent humanitarian reason for parole, even if the individual faces harm in the current location.

Factors that are relevant to the Exercise of Discretion

As with all parole cases, the existence of an urgent humanitarian reason or significant public benefit is in itself a positive discretionary factor in protection cases. The severity and imminence of the harm feared may give additional weight to this factor, depending on the facts of the case. Often protection cases may overlap with issues related to family unity or the need for medical treatment. These additional bases for requesting parole may also present positive discretionary factors. You should consider all of the general discretionary factors that you would consider for other types of parole requests, such as past immigration violations, derogatory information discovered during security checks, ties to the United States, etc. For this type of protection request, you should take particular note of the following factors:

Duration of Parole Request

In all parole cases, when exercising discretion, you would look to see whether the need for parole is temporary in nature. A negative factor that is often present in protection cases is that the petitioner is unable to establish that the need for parole is temporary. Many civil conflicts may continue for years or decades. The fact that peace may eventually come to the beneficiary's country does not mean that parole will be temporary.

Persecutors and Human Rights Abusers

In cases where parole is requested for protection from harm due to civil conflict, it is important to consider who the individual is that is seeking parole. If evidence tends to show that the beneficiary is a persecutor or human rights abuser, that would be a strong negative discretionary factor.

Evidence

In addition to the types of evidence generally required for all parole requests, evidence specific to or more commonly seen in parole requests based on the need for protection from civil conflict may include, but is not limited to the following, depending on the basis of the claim:

Country Conditions Information

In areas of civil conflict, an individual may be unable to provide much, if any, documentation in support of his or her case. For this reason, a request for protection based on a civil conflict may require you to conduct country conditions research to evaluate the case merits in light of known country conditions. In particular, country conditions information may shed light on the particular areas impacted by the conflict, and provide information where the conflict is worst and if there are areas free of conflict. You should research any evidence of relief efforts and the locations of those services. Relief Web is also a valuable starting point for conducting country conditions research related to civil conflicts around the world: <http://reliefweb.int/countries>.

Particular Vulnerability

An applicant's particular vulnerability may be a significant urgent humanitarian reason factor in his or her parole request. If able, the applicant should provide evidence of this vulnerability. Examples of possible evidence include 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.

4.3.3 Targeted Harm

An individual may request parole because he or she is targeted for harm by either the government or a non-governmental entity or actor, either as an individual or as a member of a specific group that is being targeted. Parole requests based on targeted harm present some of the most difficult cases for Officers to adjudicate as they typically involve compelling fact patterns of individuals outside the United States, who believe they are at risk of harm, even death, because of who they are as an individual. It is important to keep in mind that targeted harm may occur both within and outside the context of a civil conflict.

Factors that are relevant to Urgent Humanitarian Reasons Analysis

Apart from factors relevant to all parole cases in determining urgent humanitarian reasons or significant public benefit, the following factors should be considered when parole is requested for protection from targeted harm:

Imminent Risk of Serious Harm

Generally, for you to find that there are urgent humanitarian reasons for parole in cases involving claims of targeted harm cases, you must find that the beneficiary is at imminent risk of serious harm. The claim may be based on specific threats targeting the beneficiary individually or, in some cases, the claim may be based on the beneficiary's membership in an at-risk group that has been specifically targeted for harm. In those cases, the evidence must show not only that members of the group are at risk of imminent harm, but that the individual or group targeting the at-risk group knows, or likely imminently will know, that the beneficiary is a member of that group. Imminent serious harm, in the context of parole cases, means an immediate and present threat of harm that could lead to serious injury (psychological or physical) or death. The following are factors should be considered in determining whether the petitioner has established urgent humanitarian reasons for parole based on imminent risk of serious harm.

Living Conditions & Accessibility of Existing Relief Mechanisms

You should assess the living conditions of an applicant seeking parole for protection from targeted harm. For example, does the beneficiary have to live under extremely restrictive conditions such as never going out in public or need to frequently move to different hiding locations in an attempt to avoid harm? The fact that a person is living openly and takes no precautionary measures to avoid harm may call into question the imminence of the harm feared. You should consider whether restrictive living conditions, if present, impact whether the

applicant's basic needs are being met, such as food, clean water, shelter, and adequate sanitation, as well as the effect on the individual of living in the restrictive environment.

Availability and Accessibility of Other Protection Measures

Another factor relevant to the urgent humanitarian reason analysis in protection cases is the availability and accessibility of other protection measures. You should consider whether the government is able to offer the applicant protection from harm if the individual fears a non-governmental entity. If the government is unable to protect an applicant, or if an applicant fears a government entity, you should also consider whether international protection through refugee resettlement may be available through UNHCR or the USRAP while overseas. You should consider whether UNHCR or the USRAP have established refugee processing programs or mechanisms for individuals of the applicant's nationality and whether the applicant can reasonably access them and whether he or she has sufficient time to do so in order to avoid the targeted harm.

Ability to Relocate Within the Country

You should also consider whether the beneficiary can reasonably relocate or temporarily move to a different part of his or her home country to avoid targeted harm from a non-governmental actor, or whether the applicant can reasonably relocate or temporarily move to a neighboring country to avoid harm from either a governmental or non-governmental actor. An individual who can secure adequate protection within the country, albeit a different part of the country, or in a neighboring country will have greater difficulty establishing urgent humanitarian reason for parole, even if the individual faces imminent risk of serious harm in the current location.

Factors that are relevant to Significant Public Benefit Analysis

U.S. Government Agency requests for parole for individuals outside the United States are often based on the need for protection to avoid targeted harm, which is often an urgent humanitarian reason. However, U.S. Government Agencies typically make such parole requests for significant public benefit reasons as well. A significant public benefit may exist in addition to urgent humanitarian reason where, for example, the Department of State has requested parole for a human rights activist or political prisoner whose presence in the United States is intended to advance U.S. foreign policy goals of promoting human rights. Therefore, the factors relevant to establishing urgent humanitarian reason listed above may not be present in U.S. Government Agency requests or, if present, are typically outweighed by the factors that go to the significant public benefit analysis.

Factors that are relevant to the Exercise of Discretion

In order to exercise discretion favorably in claims where the asserted urgent humanitarian reasons is solely a claim of targeted harm, there must be credible, third-party evidence of the threat. See discussion of evidence below. If there is no credible, third-party evidence of threat, but there are other compelling, positive factors associated with the case such that you believe that discretion should be exercised favorably in a particular case, please discuss with your supervisor.

As with all parole cases, the existence of an urgent humanitarian reason or significant public benefit is in itself a positive discretionary factor in protection cases based on targeted harm. The severity and imminence of the harm feared or the significant public benefit present in a U.S. Government Agency request for parole should be considered when exercising discretion. As a matter of policy, however, if the finding of urgent humanitarian reasons is based solely on targeted harm due to membership in an at risk group, you generally should exercise discretion to deny the request, absent other compelling factors or a special parole program designed for individuals of that group. Often, targeted harm protection cases may overlap with issues related to family unity or need for medical treatment that may also present positive discretionary factors. You should consider all of the general discretionary factors that you would consider for other types of parole requests, such as past immigration violations, derogatory information discovered during security checks, ties to the United States, etc. For this type of protection request, you should take particular note of the following factors:

Duration of Parole Request

As in all parole cases, you would look to see whether the parole would be temporary in nature. A negative factor that is often present in targeted harm protection cases is that the petitioner is unable to establish that the request is temporary. For example, the threat of targeted harm may continue for years or decades and, therefore, the officer should analyze whether the individual could establish a colorable asylum claim so that parole would be temporary, if authorized.

To analyze whether the applicant may have a colorable asylum claim, you should consider the following:

- Whether the applicant was harmed in the past?
- Who seeks to harm the individual?
- Whether that person or entity has the ability to carry out any threat?
- What kind of harm is feared?
- Why does the person/entity seek to harm the applicant and whether it is because of the applicant's real or imputed race, religion, nationality, membership in a particular social group or political opinion?
- Can the individual at risk of targeted harm access help or protection from government authorities in his or her country?

Bear in mind that you are not a trained asylum or refugee officer and the purpose of considering this information, if presented by the petitioner or beneficiary, is not to pre-adjudicate any asylum claim that may be filed should the individual be authorized parole. An individual seeking parole for urgent humanitarian reasons is not required to establish asylum eligibility, nor is asylum eligibility a basis, in itself, for parole. However, the same type of inquiry that is made in asylum adjudications may be helpful to determine if the applicant has a viable asylum claim, and consequently a possible means to regularize status. You may also wish to consult the Asylum Division to obtain a recommendation on the merits of an asylum claim after discussion with your supervisor.

Evidence

The standard and burden of proof is the same for all parole cases, including those based on the need for protection from targeted harm. However, as a matter of discretion, IO will generally not authorize parole for protection from targeted harm without credible evidence that the beneficiary is individually at risk of imminent and serious harm. Unlike a refugee or asylum adjudication, you must adjudicate a parole request without the benefit of an interview to assess the beneficiary's credibility firsthand.¹⁸ Consequently, parole requests based solely on the need for protection from targeted harm require corroborative documentation of the specific risk of harm facing the parole beneficiary. In these cases affidavits or statements alone from the beneficiary, relatives and friends generally are not sufficient to establish that discretion should be exercised to grant parole based on risk of imminent serious harm.

Therefore, in addition to the types of evidence generally required for all parole requests, you should look for credible third party evidence of imminent risk of serious harm to the applicant specifically. Evidence may include, but is not limited to the following, depending on the basis of the claim:

Credible Third Party Evidence of Imminent Serious Harm to Individual

Credible evidence that the beneficiary is individually at risk of imminent serious harm may consist of reports or other documentation from a credible third party source specifically naming the beneficiary, the serious harm he or she faces and the imminence of said harm. Credible third party sources may include but are not limited to a U.S. Government agency, a reputable human rights organization or a media source. In some cases, credible evidence may consist of USCIS's 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 parole beneficiary:

¹⁸ There may be some rare situations where the Deputy Chief or Chief of IO arranges for an international adjudications officer to conduct an interview of a parole applicant.

- who is ineligible for derivative status, or
- for whom the risk of serious harm is so imminent that he or she cannot wait for the processing of his or her derivative application.

As with uncorroborated affidavits from the beneficiary, general reports on country conditions generally would not be considered credible third party evidence of risk of imminent serious harm to an individual, unless the reports contain specific references to the beneficiary or, in some situations, to the beneficiary's immediate family members. Also, evidence of membership in an at risk group, in and of itself, generally is insufficient to establish individualized risk of imminent serious harm such that discretion should be exercised to authorize parole.

Additional Country Conditions Information

If there is credible third party evidence that the individual parole beneficiary has been targeted for imminent serious harm, you should conduct country conditions research to evaluate whether there are refugee protection mechanisms available and accessible to the individual. You should also research whether the government can or is willing to protect the individual from targeted harm, and whether there is a part of the country or another country where the individual is permitted to safely reside. The RAIIO Research Unit ECN site contains valuable country conditions information. Relief Web is also a valuable starting point for conducting country conditions research related to conflicts around the world: <http://reliefweb.int/countries>.

Particular Vulnerability

An applicant's particular vulnerability may be a significant factor relevant to urgent humanitarian reasons for a parole request. If able, the applicant should provide evidence of his or her particular vulnerability. Examples of possible evidence include 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 station.

4.4 Requests Based on Adoption

Parole requests involving adoption of children outside the United States present particularly complex issues, especially those related to U.S. implementation of the *Hague Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption* (also known as the Hague Adoption Convention). While it is important that you have a basic understanding of U.S. immigration law related to adoption when considering a parole request involving inter-country adoption, all adoption-related parole requests are forwarded to the appropriate point(s) of contact (POCs) within IO Children's Affairs and Parole Policy (CAPP) Branch for review and an assessment. The assessment

by the CAPP POC will include an analysis of the relevant country's (or countries') adoption laws, along with a recommendation for the parole request. The adoptions POC recommendation will be included in the record and will inform the parole determination.

IO adoption POCs provide valuable assistance in determining what, if any, specific evidence is needed to support an adoption-related parole request. Authorization of parole is rare in cases involving inter-country adoption and, when parole is authorized, it is important that the petitioners have a clear understanding of any immigration consequences of parole. It is routinely required that the petitioner demonstrate his or her ability to finalize the adoption of the child and for the beneficiary child to eventually be able to adjust status once in the United States. Such request may also entail obtaining the permission of the appropriate authorities in the child's country of residence.

4.5 Requests to Participate in Legal Proceedings

Under the 2008 Tri-Bureau Parole MOA, ICE assumes jurisdiction over parole requests for aliens who will participate in legal proceedings where one party is a government entity, whether at the federal, state, local, or tribal level of government. The MOA assigns USCIS (IO) jurisdiction to adjudicate parole requests where the individual for whom parole is requested needs to participate in civil proceedings in which all parties are private litigants.

Often, the need to be in the United States to participate in legal proceedings does not constitute an urgent humanitarian reason for parole. However, the ability for an individual to participate in legal proceedings may be a significant public benefit. The individual's ability to resolve outstanding legal issues, especially those involving an LPR or USC, may be of important advantage to the community. Further, it could be considered a significant public benefit in promoting the smooth functioning of the U.S. judicial system.

4.6 Need to Return to the United States After Failing to Procure A Travel Document Or Failing to Return Prior to Expiration of a Travel Document

IO occasionally receives requests to parole individuals into the United States who:

- departed the United States without obtaining the appropriate travel documents, or
- obtained the required travel document prior to departing the United States, but who failed to return to the United States prior to its expiration.

4.6.1 *Refugee Travel Document*-related Requests

This type of parole request is made to bring an individual back into the United States after he or she departed the United States without obtaining a *Refugee Travel Document* to re-enter the United States or failed to return to the United States prior to the expiration of a *Refugee Travel Document*.

A *Refugee Travel Document* is a document issued to a person classified as a refugee or asylee, or to a permanent resident who obtained such status as a refugee or asylee in the United States. A person who holds asylee or refugee status and is not a permanent resident must have a *Refugee Travel Document* to be admitted to the United States after temporary travel abroad. Generally, a request for a *Refugee Travel Document* (filed on the Form I-131) should be filed prior to the individual's departure from the United States. However, the *Refugee Travel Document* may be issued at a U.S. Embassy or Consulate abroad, if the applicant makes this request at the time of filing the application. The travel document is valid for one year and cannot be extended. Regulations governing eligibility for a *Refugee Travel Document* are found at 8 CFR § 223.2.

If a refugee or an asylee has been outside the United States for 1 year or less, he or she may request permission from a USCIS international office to apply for a *Refugee Travel Document* with a USCIS office abroad. An application for a *Refugee Travel Document* (filed on the Form I-131) will not be adjudicated by USCIS overseas offices if, at the time of filing, the refugee or asylee has been out of the country for more than a year.

If an asylee or refugee's *Refugee Travel Document* has expired or the asylee or refugee is unable to obtain the *Refugee Travel Document*, parole may be an option for the individual to return to the United States. See November 23, 1999 Memorandum from INS General Counsel to INS Field Operations and Office of International Affairs, "Readmission of Asylees and Refugees Without Travel Documents", which indicates the following:

Although refugees and asylees who leave the United States improperly are not entitled to be readmitted to the United States, they have been accorded a legal status presumably for compelling reasons, because either they have suffered persecution in the past or they have a well-founded fear of persecution upon return to their country. The alien's lack of an advance parole document or his inadmissibility to the United States created by the lack of a refugee travel document should be viewed in light of the compelling circumstances that led to the alien's status as a refugee or asylee. Accordingly, it is often appropriate for [DHS] to facilitate the return of refugees or asylees to the United States when they are stranded overseas due to the absence or expiration of a refugee travel document. [CBP] inspectors or USCIS international officers should also be mindful that in many cases, the alien may not be aware of the requirement to obtain a refugee travel document and that events abroad often overtake an alien's ability to return to the United States in a timely fashion.

For more information about refugee travel documents see Form I-131 Instructions, 8 C.F.R. § 232.3(b)(2) and Chapter 53 of the USCIS Adjudicator's Field Manual.

4.6.2 Reentry Permit-related Requests

A *Reentry Permit* is a travel document that allows a lawful permanent resident or a conditional resident to apply for admission to the United States upon returning from

abroad, during the permit's validity, without the need to obtain a returning resident visa from a U.S. Embassy or Consulate. *Reentry Permits* are generally valid for two years from the date of issuance and cannot be extended.

An applicant must be physically present in the United States when filing an application to receive a *Reentry Permit*. However, a *Reentry Permit* may be issued at a U.S. Embassy or Consulate or DHS Office abroad, if the applicant makes this request at the time of filing the application. Departure from the United States before a decision is made on the application for a *Reentry Permit* usually does not affect the application. However, if biometric collection is required and the applicant departs the United States before the biometrics are collected, the application may be denied. In some circumstances, USCIS will permit biometric collection at a USCIS office abroad.

A lawful permanent resident who travels abroad for less than one year does not need a *Reentry Permit* to return to the United States and may re-enter the United States using his or her *Permanent Resident Card* (Form I-551). An LPR who has remained abroad for one year or more and departed the United States without applying for a *Reentry Permit* prior to departing the United States or who has remained abroad beyond the 2-year validity of a *Reentry Permit* may request parole in order to return to the United States. More detailed information about *Reentry Permits* may be found in the Form I-131 Instructions 8 C.F.R. § 223.2 and in Chapter 52 of the Adjudicator's Field Manual.

4.6.3 *Advance Parole Document*-related Request

Individuals who have departed the United States without obtaining an *Advance Parole Document* (Form I-512) prior to their departure, individuals who have remained outside the United States beyond the validity of the *Advance Parole Document*, and individuals not eligible to receive an *Advance Parole Document* sometimes request parole in order to return to the United States.

Aliens who apply for advance parole may have a benefit application pending with USCIS, such as an application for adjustment of status or asylum. In some cases, the alien may have deferred action or be paroled. The impact of departing the United States without advance parole depends on the application that is pending or the status of the alien prior to departing the United States.

If the pending benefit is an application for adjustment (Form I-485), generally, an alien who departs without obtaining an *Advance Parole Document* will be deemed to have abandoned his or her application for adjustment (Form I-485). However "[t]he effect of departure from the United States is dependent upon the law under which the applicant is applying for adjustment." Refugees and asylees with a pending adjustment application (Form I-485) who depart the United States prior to obtaining an *Advance Parole Document* do not lose their refugee or asylee status (unless their status is terminated) and an application for adjustment may still be considered valid and not abandoned.

Factors that are relevant to Urgent Humanitarian Reasons Analysis or Significant Public Benefit Analysis

Apart from factors relevant to all parole cases in determining urgent humanitarian reasons or significant public benefit, factors specific to parole requests based on failure to obtain a travel document or failure to return to the United States prior to the expiration of a travel document include:

The Need to Return to the United States

Generally, the need to return to the United States after failing to secure the appropriate travel document (*Refugee Travel Document, Reentry Permit, or Advance Parole Document*) or failing to return within the validity period of a travel document, in and of itself, does not constitute an urgent humanitarian reason for parole nor does it present a significant public benefit. Parole is not intended to be used as a vehicle to circumvent procedures to obtain a travel document in order to return to the United States. As such, a parole request based solely on the desire to return to the United States may not constitute an urgent humanitarian reason for parole.

In these types of cases, the factors to consider in evaluating whether there are urgent humanitarian reasons for an individual to return to the United States, include, but are not limited to, the following:

- The status the individual had while in the United States, including the reason the person came to the United States in the first place;
 - Was the individual fleeing persecution and therefore may be at risk of further persecution if not able to return to the United States?
- The age the individual was when he or she first came to the United States and the amount of time the individual has lived in the United States;
- The ties the individual has in the United States.;
- The individual's ability to remain where he or she is and his or her current living conditions;
- The impact departure without advance parole may have on the individual's status in the United States and whether remaining outside the United States will result in the individual losing lawful immigration status.

Factors that are relevant to the Exercise of Discretion

In addition to the discretionary factors generally applicable to all parole requests, the following discretionary factors are specifically relevant to parole requests for individuals who do not have the appropriate travel document or whose travel document has expired:

Circumstances Surrounding the Expiration of or Failure to Obtain a Travel Document Prior to the Applicant's Departure from The United States

In considering parole requests based on the need to return to the United States, an important discretionary factor is the circumstances that led to the applicant's departure from the United States and the reason for his or her failure to obtain the requisite travel documentation prior to departure. The key is whether the record indicates that there were compelling circumstances or circumstances beyond the beneficiary's control that prevented him or her from obtaining a travel document prior to departing, or returning timely.

Depending on the circumstance, the existence of some type of emergency that prevented the beneficiary from obtaining a travel document prior to his or her departure from the United States may be considered a positive discretionary factor. For example, an individual may have departed the United States without obtaining travel document if a family member overseas was in critical condition due to a sudden illness or injury, if there was a minor child or individual with special needs who was in a vulnerable situation and needed immediate assistance, if there was a death of a close family member overseas, or if there was some other type of compelling emergency.

In a case where the beneficiary did obtain the requisite travel document prior to departing the United States but failed to enter the United States prior to its expiration, you would look at the circumstances surrounding his or her failure to return in a timely fashion. For example, the fact that an applicant who obtained an *Advance Parole Document* prior to departing the United States had a massive heart attack and underwent surgery while overseas, would present a positive discretionary factor.

The Temporary Nature of Parole

As noted previously, failure to establish that a beneficiary will remain in the United States temporarily or has a path to regularize status once in the United States is a negative discretionary factor. However, if an individual was granted some form of temporary permission to remain in the United States, such as parole or deferred action, it may be appropriate to give this negative discretionary factor less weight, taking into account that a decision had already been made to allow the individual to remain in the United States on a temporary basis with the option of renewing that permission. In addition, this negative factor may be outweighed by positive factors related to the individual's justification for failure to obtain advance parole and the factors that form the basis of the finding of urgent humanitarian reasons. As in all analyses of the exercise of discretion, officers must consider the totality of the circumstances in determining whether to exercise discretion favorably.

Discretionary Factors Only for Refugee Travel Document Cases

In addition to the discretionary factor listed above, for cases relating to an individual's failure to obtain a *Refugee Travel Document*, you should also consider the following factors, many of which overlap with the factors to consider in evaluating urgent humanitarian reason¹⁹:

- The compelling circumstances that led to the original approval of asylum or refugee status. The fact that the beneficiary is a refugee or asylee is, in and of itself, a strong discretionary factor to support the beneficiary's parole into the United States. Presumably, the individual was accorded this legal status for compelling reasons either because he or she suffered past persecution or has a well-founded fear of persecution in the country of nationality.
- Whether the individual attempted to obtain a *Refugee Travel Document* from a USCIS Office overseas within one year after departing the United States, but was denied the *Refugee Travel Document* and the reasons for the denial.
- Whether the beneficiary returned to his or her country of persecution. Depending on the reason for return, the fact that a refugee or asylee has returned to his or her country of persecution may cast doubt on the bona fides of the alleged fear of persecution and may be a negative discretionary factor. Where applicable, the petitioner or beneficiary should present evidence regarding any extenuating circumstances that warranted a return to the country of persecution such as a death in the family or medical emergency of a family member who needs assistance. Some individuals will risk suffering persecution to address such circumstances. However, even if there is no evidence of extenuating circumstances for return, return to the home country may not cast doubt on the validity of the asylum or refugee status if there have been changes in the home country such that the individual no longer is at risk of persecution. You should consider the length of time the beneficiary spent in the country, whether the beneficiary suffered any harm and whether he or she availed him or herself of the protection of the government of the country. All these reasons may influence the weight you should give this factor when exercising discretion. Keep in mind, however, that parole adjudication officers are not experts in asylum and refugee law and may not make determinations on whether asylum or refugee status should be terminated; such decisions are made by an asylum officer or Immigration Judge. When you have concerns about the asylum or refugee status, you should discuss with your supervisor whether to discuss the case with the Asylum or Refugee Affairs Division and the degree to which return to the country

¹⁹ Nov 23, 2009. "Readmission of Asylees and Refugees without Travel Documents." [need to link]

of persecution may be a negative discretionary factor in the parole determination.

Evidence

In addition to the kinds of evidence generally applicable to all types of parole requests, travel document cases may also require the following:

- A copy of the beneficiary's expired travel document, when relevant, such as an expired refugee travel document or advance parole document;
- Documentation of the beneficiary's departure from the United States (to establish the date he or she left and the length of absence);
- Correspondence or other evidence of any prior, unsuccessful attempts the beneficiary has made to procure the applicable travel document (e.g., correspondence with a USCIS overseas office);
- Medical records, doctor's letters, affidavits, or other evidence attesting to the emergency that required the beneficiary's departure from the United States prior to obtaining the appropriate travel document or kept the beneficiary from returning to the United States prior to the expiration of a travel document.

5 CONCLUSION

This concludes the guidance pertaining to applications for parole filed with IO. For additional guidance on parole procedures and processes, please consult the IO Parole Procedures Manual. For additional information on evidence, sources of authority, researching country of origin information and decision-making, please consult the appendices below, as well as the appropriate RAIO lesson plans available on the [RAIO Training ECN site](#).

OTHER MATERIALS

Appendix A

- A. September 2008 Memorandum of Agreement (MOA), “Coordinating the Concurrent Exercise by USCIS, ICE, and CBP, of the Secretary’s Parole Authority under INA 212(d)(5)(A) with respect to Certain Aliens Located Outside the United States.”
- B. July 9, 2012 Memorandum from IO Chief, Joanna Ruppel to IO-IO Staff, “Procedural Guidance on Parole Case Submissions for Adjudication by the International Operations Division’s Humanitarian Affairs Branch”
- C. September 27, 2012 Memorandum from IO Chief, Joanna Ruppel to IO and IASB Staff, “Parole Adjudication Guidance – office Adjudication and Documentation”
- D. 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.
- E. Form I-131, *Application for Travel Document* and Instructions
- F. Form I-134, *Affidavit of Support* and Instructions
- G. November 23, 1999 Memorandum from INS General Counsel to INS Field Operations and Office of International Affairs, “Readmission of Asylees and Refugees Without Travel Documents”
- H. 1998 *Protocol Governing Significant Public Benefit Parole Requests by the Department of State to the Immigration and Naturalization Service*
- I. October 9, 2008 Memorandum from USCIS Acting Director to RAIO Associate Director, “Classified Systems Checks for Humanitarian and Significant Public Benefit Parole Requests”
- J. Parole Adjudication Worksheet and User Guide [under development]
- K. CAMINO Parole Case Data Entry Procedures [under development]
- L. *Parole Procedures Manual*[under development]