



December 30, 2009

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Memorandum

TO: ASYLUM OFFICE DIRECTORS
ASYLUM OFFICE DEPUTY DIRECTORS
SUPERVISORY ASYLUM OFFICERS
QUALITY ASSURANCE/TRAINING ASYLUM OFFICERS
ASYLUM OFFICERS

FROM: Joseph E. Langlois /s/
Chief, Asylum Division

SUBJECT: Providing Notification of ICE's Parole Guidelines to arriving aliens found to have a credible fear of persecution or torture

Asylum Offices will begin providing the attached "Information about How to Seek Release from Detention: Parole Eligibility and Process for Certain Asylum Applicants" to arriving aliens ("POE case")¹ who have been found to have a credible fear of persecution or torture. The implementation of this notification is effective on January 4, 2010 to correspond with ICE's implementation of new policy guidelines for parole of arriving aliens found to have a credible fear of persecution or torture.

The attached information sheet will be included in the service of a positive credible fear decision of an arriving alien ("POE case").² It should be read to the applicant in his or her native language using the contract interpreter service. The applicant should sign the information sheet. The corresponding interpreter ID number and language used should be written on the information sheet together with the date of service. The completed original information sheet should be forwarded to ICE officials having jurisdiction of the applicant's case to be included in the A-file and a copy given to the applicant and to the attorney of record, if applicable.

Attachments (6)

¹ Please note that at this time, the parole guidelines do not include cases of individuals apprehended between ports of entry ("inland cases").

² At this time, the Asylum Offices will provide this parole information sheet only in cases where the Asylum Office finds a positive credible fear determination of an arriving alien.

Information about How to Seek Release from Detention: Parole Eligibility and Process for Certain Asylum Applicants

USCIS has determined that you have a credible fear of persecution or torture.

- You may be eligible for parole (release from detention) while you await a final determination of your case.
- Your case will be referred to Immigration Court where you will file an application for asylum in front of an Immigration Judge.

The purpose of this notice is to explain how you might be released from detention. This type of release is called parole. Immigration and Customs Enforcement (“ICE”) officials are responsible for your custody. They will interview you and decide if you will be released from detention based upon your ability to satisfy the requirements described below. ICE will provide you with an interview notice, a *Parole Advisal and Scheduling Notification* that will tell you when you will be interviewed. If you do not receive this parole interview notice within 5 days, you should contact an ICE official in your detention location.

At your parole interview, you may be represented, at no expense to the government, by an attorney or other individual who is authorized to represent persons before ICE. A list of free legal service providers has been given to you; if you cannot afford an attorney, the organizations on this list may be able to represent you. Even if you cannot find an attorney or representative, ICE will still interview you and consider your case for release from detention.

Under ICE policy, you may be granted parole if you establish: (1) your identity; (2) that you are likely to appear for all scheduled hearings and enforcement appointments; and (3) that you do not present a security risk to the United States or a danger to the community.

You may establish these three points through oral statements at the interview and/or documents you present before the interview. Before the interview, you should gather documents that will help you at your interview. Helpful documentation may include:

1) Identity: Documents such as a passport, national identity card or birth certificate. If you did not arrive with these types of documents, you may want to ask relatives and other people who know you to get these documents for you. If you are unable to get these documents, you may want to ask relatives and other people who know you to provide you with sworn statements confirming your identity. If ICE took your identity documents from you, the ICE officer should have these documents in your file already and you will not need to provide them. You may want to provide a list of the identification documents that should be in your file in order to be certain they are considered.

2) Appearance at Hearings and Appointments: You must show that you will appear for all immigration hearings and appointments, including reporting for removal if you are eventually ordered removed from the United States. In order to show that you will appear for all immigration hearings and appointments, you may want to provide information on your ties to the community. This could include names, addresses and relationship to family and

community in the United States including close friends, religious groups and membership in professional societies. These are especially helpful where these individuals have legal immigration status. If there is someone who is willing to let you live with him or her, you may want to provide a letter or sworn declaration from that person and include the person's full name, relationship to you, legal status in the United States, address and any other relevant information.

3) *Security Risk*: ICE will generally assess this criteria based on any evidence of past criminal history. If you have past criminal history, you may want to submit any evidence of rehabilitation you may have or other evidence showing why you do not pose a danger to the community.

If you do not understand English, you may request a qualified interpreter assist you at your parole interview. Please notify ICE that you need an interpreter for your interview as soon as possible. ICE will then provide an interpreter for your parole interview at no cost to you.

Within seven days of your interview, ICE will give you a written decision as to whether you will be released from detention, including any reason for denying release. If you do not receive a decision within seven days, then you should contact ICE officials at your current location. If you are denied release, you may ask for ICE to review the decision by providing additional information or documents to establish your identity, that you are likely to appear for all scheduled hearings and enforcement appointments and that you do not present a security risk to the United States or a danger to the community. A written request may be made for an additional review of the decision based on changed circumstances or additional information.

If ICE decides to release you from detention, it is very important that you follow any conditions relating to your parole. These conditions can include the payment of a bond, certain reporting requirements, and/or enrollment in an alternative-to-detention program.

Do you understand everything I have told you today? Your signature below indicates your understanding.

Date: _____ A Number: _____

Language used: _____ Interpreter Service & ID No. _____

Signature of Applicant: _____

Cc: A-file and applicant



News Release

December 16, 2009

Contact: ICE Public Affairs
202-732-4242

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

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

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

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

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

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

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

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

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

ICE

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

Fact Sheet

December 16, 2009

Revised Parole Policy for Arriving Aliens with Credible Fear Claims

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

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

When will the policy take effect?

The policy becomes effective Jan. 4, 2010.

Who does the policy apply to?

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

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

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

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

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

How will arriving aliens be notified of their parole option?

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

What is parole?

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

What is credible fear?

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

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