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IRAP Explainer on Initial Trump Actions Attacking Parole and Parolees

On January 20, 2025, the Trump administration issued two executive orders, "Protecting the American People Against Invasion" and "Securing our Borders." The orders direct agencies to (1) ensure that the executive branch's parole authority is exercised consistent with the law; and (2) terminate "categorical" parole programs like the Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans ("CHNV").

On January 20, 2025, the Acting Secretary of Homeland Security issued a memo, "Exercising Appropriate Discretion Under Parole Authority," directing agencies to "pause, modify, or terminate, effective immediately, any parole program" inconsistent with the Trump administration's position on parole.

On January 21, 2025, the Acting Secretary took steps to expand the applicability of expedited removal, a fast-track deportation process.

On January 23, 2025, the Acting Secretary issued a memo, "Guidance Regarding How to Exercise Enforcement Discretion," which directs officers to consider taking steps to terminate people's parole status to place them into expedited removal; terminate standard deportation proceedings to subject people to expedited removal; and terminate people's parole and place them into regular deportation proceedings.

On February 18, 2025, CBS News reported that USCIS issued a memo ordering an "administrative pause" on "pending benefit requests" filed by individuals who originally entered the United States through three Biden-era parole programs: CHNV, Uniting for Ukraine, and the Family Reunification Parole Processes. During this indefinite pause, affected parolees may not obtain through USCIS any new legal status, such as asylum, Temporary Protected Status, or lawful permanent residence.

This explainer analyzes these policies and their implications.

1. What is parole?

Parole is a form of lawful entry to the United States, which does not constitute an "admission," and a temporary, lawful status. Parole can be conditionally approved while the recipient is in another country seeking to enter the United States, or it can be issued when a person is at a U.S. port of entry or already inside the United States.

By law, parole is issued on a case-by-case basis, either for urgent humanitarian reasons or significant public benefit. It is often issued for a two- or three-year period, though it is discretionary and can be issued for any length of time, renewed or not, and terminated or revoked. Multiple DHS agencies have authority to issue and renew parole. Here are USCIS's parole standard operating procedures from 2022.

Since parole is temporary, people who are paroled into the United States who seek to remain permanently must apply for another form of immigration relief. Typically parolees would apply for such relief through USCIS, but in certain instances parolees may end up in removal proceedings and pursue relief before the immigration courts (the Executive Office for Immigration Review).

2. What is "categorical" or "group-based" parole? Who has entered the United States through such parole programs?

Parole is an immigration authority exercised by the executive branch. The term "categorical" or "group-based" parole refers to formal programs through which certain eligible individuals may *apply* for parole. Successive presidents of both parties have used the parole statute in this manner since President Eisenhower. Even in such programs, the law requires that each parole determination be made on an individual, case-by-case basis for urgent humanitarian or significant public benefit reasons.

Under the Biden administration, a number of new parole programs authorized the legal entry of hundreds of thousands of people fleeing war and extreme humanitarian conditions. These programs were highly successful at facilitating family reunification, strengthening the U.S. economy, and enabling the U.S. government to significantly increase its control over who entered the United States at the Southwest border.

Approximately half a million people have been paroled into the United States through the Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans ("CHNV"). Approximately a quarter million people have been paroled in through the Uniting for Ukraine program ("U4U"). Approximately 75,000 have been paroled in through Operation Allies Welcome for Afghans ("OAW"). Approximately 60,000 have been paroled in through the Family Reunification Parole Process, for beneficiaries of approved family-based petitions from Cuba, Haiti, Guatemala, El Salvador, Honduras, Colombia, and Ecuador. An estimated 6,000 people have been paroled in through the Family Reunification Task Force

for families separated under the first Trump administration's Zero Tolerance policy. Several thousand have been paroled in through the Central American Minors Program.

Approximately one million people have been paroled into the United States after receiving an appointment to present at a port of entry through the CBP One application. The CBP One application was a means to provide greater predictability to U.S. border agents and to enhance border security. When people used the CBP One application to present to border agents, border agents sometimes (not always) exercised discretion to grant parole.

3. **What does the January 20, 2025, executive order "Protecting the American People Against Invasion" say about parole?**

This order directs government agencies to "ensur[e] that the parole authority…is exercised on only a case-by-case basis in accordance with the plain language of the statute, and in all circumstances only when an individual [noncitizen] demonstrates urgent humanitarian reasons or a significant public benefit derived from their particular continued presence in the United States arising from such parole." On its face, this direction does not explain why parole programs, which allow a group of people to apply for parole but require individualized assessments of each applicant, do not already meet the case-by-case legal standard.

4. **What does the "Securing Our Borders" executive order say about parole?**

This order directs the Secretary of Homeland Security to "[c]ease using the "CBP One" application as a method of paroling or facilitating the entry of otherwise inadmissible [noncitizens] into the United States"; to "[t]erminate all categorical parole programs that are contrary to the policies of the United States established in [President Trump's] Executive Orders, including the program known as the 'Processes for Cubans, Haitians, Nicaraguans, and Venezuelans'"; and to "[a]lign all policies and operations at the southern border of the United States to be consistent with the policy of Section 2 of this order and ensure that all future parole determinations fully comply with this order and with applicable law."

Before this order was signed on January 20, 2025, the Department of Homeland Security (DHS) had already canceled, earlier in the day, appointments at U.S. ports of entry that noncitizens had obtained through the CBP One application. DHS canceled approximately

30,000 scheduled appointments. An additional 270,000 people were using the CBP One application in hopes of securing an appointment at the time of Trump's termination.

This order provides for the discontinuation of the parole *programs*. It does not order any action with respect to people already paroled into the United States.

5. **What does the January 20, 2025 DHS memo "Exercising Appropriate Discretion Under Parole Authority" say about terminating parole status?**

IRAP has not seen this memo. However, the January 23, 2025 DHS memo "Guidance Regarding How to Exercise Enforcement Discretion" provides that the unpublished January 20 memo directs agencies to "pause, modify, or terminate, effective immediately, any parole program" inconsistent with the Trump administration's position on parole.

6. **What does the January 23, 2025, DHS memo "Guidance Regarding How to Exercise Enforcement Discretion" say about parole and terminating people's parole status?**

The January 23, 2025 memo directs DHS to consider a number of actions that would lead to parolees being deported quickly from the United States. Specifically, it directs DHS to "take all steps necessary to review" who could be subject to expedited removal under the Trump administration's expansive view of that process – and to take predicate actions to render people subject to expedited removal. The memo directs DHS to evaluate affirmatively whose parole should be terminated – which DHS always has the discretion to do – and to review who could be placed into standard removal proceedings or expedited removal.

This memo should be read together with the "Designating Aliens for Expedited Removal" Federal Register Notice, effective January 21, 2025, which seeks to expand the applicability of expedited removal. On January 22, 2025, the ACLU sued to challenge this expansion. Various resources explain this expanded version of expedited removal, which the first Trump administration pursued as well.

The memo directs officers to consider the applicability of expedited removal to people whose parole DHS terminates and to people whose standard removal proceedings DHS moves to terminate. There is no authority to take someone out of standard removal proceedings to subject them to expedited removal, which is not subject to judicial review.

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7. What does the February 14, 2025, DHS memo on suspending processing of applications and petitions for immigration relief filed by parolees say?

At time of publication, IRAP has not seen the DHS memo. According to public reporting that quotes the memo, USCIS ordered an "administrative pause" on processing "pending benefit requests" filed by people paroled into the United States through one of three Biden-era parole programs: CHNV, U4U, and Family Reunification Parole Processes. The reported reason that the directive provides for this suspension on processing is to "identify potential cases of fraud and enhance vetting procedures to mitigate concerns related to national security and public safety."

The result of USCIS suspending processing of any form of immigration relief filed by these parolees is that those affected who had yet to apply for another form or relief or whose application was pending at the time of the freeze cannot obtain another lawful status through USCIS. As a result, when parolees' parole period expires – or when the government terminates that parole status – parolees will have limited ability to protect themselves from removal. In some circumstances, they will also begin to accrue unlawful presence, which can affect future eligibility for various forms of immigration relief.

If parolees are placed into standard removal proceedings, they may seek asylum and legal permanent residence, among limited other forms of immigration relief, before the immigration judge. Pursuing such forms of relief in immigration court, as opposed to through USCIS, renders the process adversarial, with an ICE prosecuting attorney typically seeking removal from the country and denial of any form of relief that would preclude such removal. Immigration judges do not have jurisdiction to adjudicate many types of relief, such as TPS.

If parolees are subject to expedited removal, the only way to get out of expedited removal is by successfully claiming a fear of return and being placed into standard removal proceedings instead. It is unknown how this administration will treat former parolees' amenability to expedited removal if they have pending asylum applications at the time their parole is terminated.

Below, we provide information on the number of people impacted for each parole program covered in the memo:

a. CHNV parolees

Of the roughly half million CHNV parolees, more than 200,000 are Haitian, more than 100,000 are Venezuelan, more than 100,000 are Cuban, and just under 100,000 are Nicaraguan. The original parole grant expires by mid-2025 for about 50,000 Haitians, 50,000 Venezuelans, 35,000 Cubans, and 20,000 Nicaraguans.

IRAP does not know exactly how many CHNV parolees applied for TPS, asylum, adjustment of status, or another form of immigration relief – and how many of those applications have been approved – at the time of DHS's suspension on February 14, 2025. IRAP previously analyzed CHNV parole numbers and their imminent expiration here.

b. U4U parolees

Likewise, it is unknown how many of the quarter million U4U parolees have applied for another form of immigration relief and have had such applications adjudicated before February 14, 2025.

c. Family Reunification Parole Process parolees

As of August 2024, approximately 60,000 people were paroled into the United States through the Family Reunification Parole Process. These parolees are exclusively beneficiaries of approved family-based petitions from Cuba, Haiti, Guatemala, El Salvador, Honduras, Colombia, and Ecuador.

Parolees in this category are typically waiting for visas to become available in order to apply for lawful permanent residency in the United States. For those who are not beneficiaries of petitions as immediate relatives of U.S. citizens as defined by USCIS, if their parole status expires or is terminated and they do not have another status in the United States, they may lose their eligibility to apply for lawful permanent residence and be forced to leave the United States and apply for a visa at a consular office abroad when a visa becomes available. They may also be subject to new grounds of inadmissibility in such cases and have to submit waivers of inadmissibility for new issues arising as a result of their terminated or expired parole.

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8. What may happen to parolees in the United States given this January 23, 2025, DHS memo?

Many factors will affect this answer, and available information is rapidly evolving. For purposes of understanding what the Trump administration can do to parolees, it is helpful to consider distinct groups of people:

a. People paroled into the United States who remain in parole status and who have not applied for asylum or another form of relief

Parole is discretionary, and the parole regulation gives DHS authority to terminate parole before the end of the authorized parole period. However, the regulation also appears to require individualized notice to the parolee (e.g., service of a charging document). *See* 8 C.F.R. s 212.5(e)(2)(i). It is unclear what DHS under the Trump administration will do and how they will do it.

The parole regulation provides that where parole has been prematurely revoked on notice to the noncitizen, the noncitizen may be subjected to expedited removal (Section 235 of the INA) or standard removal proceedings (Section 240). *See* 8 C.F.R. s 212.5(e)(2)(i). The January 23, 2025, memo in turn directs DHS to evaluate terminating "any active parole status," so as to render the person amenable to expedited removal. It bears noting that the expedited removal statute, INA section 235, limits expedited removal to noncitizens "who have not been admitted or paroled" or those who are "arriving."

As of February 14, 2025, individuals paroled into the United States under CHNV, U4U, or the Family Reunification Parole Processes who have not yet applied for asylum or another form of relief will not have their application adjudicated – or possibly even receipted in – if they file such an application on or after February 14, 2025.

b. People paroled into the United States who remain in parole status and who have applied for asylum or another form of relief

The January 23, 2025, memo suggests the Trump administration will try to subject paroled-in asylum-seekers to expedited removal as well: "Further, the expedited removal process includes asylum screening, which is sufficient to protect the reliance interests of any alien who has applied for asylum or planned to do so in a timely manner."

As of February 14, 2025, DHS is suspending indefinitely processing of pending applications filed by parolees who entered through CHNV, U4U, or the Family Reunification Parole Process. It is unclear at this time if the pendency of such an application – even if it is not being processed or adjudicated – will have a protective effect for parolees whom the government seeks to remove.

c. People paroled into the United States who have been placed into standard removal proceedings

Generally, someone in standard removal proceedings, under section 240 of the Immigration and Nationality Act (INA), would not have those proceedings terminated in order to be placed into expedited removal proceedings, under section 235 of the INA. There is no legal authority for DHS to take someone out of standard removal proceedings in order to place them into expedited removal.

However, the January 23, 2025, memo directs DHS to consider the applicability of expedited removal to individuals currently in section 240 proceedings, including through "steps to terminate any ongoing [section 240] removal proceeding."

Procedurally, once jurisdiction has vested in the immigration court, if DHS wishes to discontinue prosecuting removal through section 240 proceedings, the ICE assistant chief counsel would need to move to dismiss the proceedings, and an immigration judge would have to grant that motion, perhaps over a Respondent's objection. Once an individual is not in active section 240 proceedings, ICE could seek to remove someone through expedited removal – even though, as noted, the expedited removal statute exempts people who have been paroled into the United States.

d. People paroled into the United States whose parole has expired

Parole terminates automatically, without written notice, upon expiration of the parole period unless the parolee is granted a new parole period. People whose parole period has ended, and who have not applied for another form of relief, are unlawfully present and subject to placement in removal proceedings.

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9. Will DHS actually deport so many people who were paroled into the United States?

We do not know yet what will happen in practice to parolees targeted by this confluence of executive actions. The Trump administration claims it will place as many people as it can into expedited removal, detain as many people as possible, and deport as many as possible as quickly as possible.

Resource constraints will limit the number of people upon whom DHS serves notice terminating parole and/or subjects to removal proceedings or expedited removal, as well as the number of people DHS arrests, detains, prosecutes, and deports.

Constraints on the final stage of deportation from the United States also include diplomatic arrangements with receiving countries. A common reason that the U.S. does not deport people with final removal orders is because the country of removal refuses to cooperate with their deportation – whether with respect to issuing identity documents or allowing planes to land.

The Biden and Trump administrations have sought numerous vehicles to circumvent this latter constraint. The Biden administration established a bilateral agreement with Mexico – still in place today, as far as is known publicly – to deport up to 30,000 Cubans, Haitians, Nicaraguans, and Venezuelans to Mexico, despite legal requirements to deport people only to their country of origin or last habitual residence, subject to limited exceptions.

Trump administration officials, including since before inauguration, have engaged other Latin American governments seeking their agreement to accept deportation flights of individuals who are not their citizens or nationals. The administration is now conducting such flights to Panama and Costa Rica and has agreements to remove foreign nationals to Guatemala and El Salvador. The Trump administration has also signaled an intent in the executive order "Protecting the American People Against Invasion" to use INA Section 243(d) to pressure "recalcitrant" countries to receive repatriation flights. On January 22, 2025, Congress passed the Laken Riley Act, expanding state and local officials' ability to exercise this diplomatic tool.