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# DHS'S UNLAWFUL USE OF PAROLE IS A PROFIT DRIVER FOR CARTELS AND HUMAN TRAFFICKERS

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## TOP LINE POINTS

- ★ The Department of Homeland Security is unlawfully using the narrow immigration parole authority to allow at least 500,000 inadmissible aliens into American communities every year.
- ★ The Biden Administration calls this abuse of parole a “safe, humane, and orderly” lawful pathway, but it fuels profits for the Mexican cartels and human traffickers.
- ★ Cartels profit because illegal aliens with parole are eligible for work permits, welfare, and other taxpayer-funded benefits that ensure they can repay their smugglers or traffickers.

When the COVID-19 public health emergency ended on May 11, 2023, the Biden Administration could no longer immediately expel illegal aliens at the southern border under Title 42 of the United States Code. Instead, the administration reverted to applying the Immigration and Nationality Act (INA) at the southern border, using its authority under Title 8 (8 U.S.C. 1101 et seq.). As part of the administration’s plan to manage the border crisis without Title 42 authority, the Department of Homeland Security (DHS) is unlawfully using the immigration parole authority to allow otherwise inadmissible aliens into American communities. Found at section 212(d)(5) of the INA, this authority allows the Secretary to parole an otherwise inadmissible alien into the country only on a case-by-case basis for urgent humanitarian reasons or significant public benefit (8 USC

1182(d)(5)). This law also requires the alien to be returned to DHS custody and removed from the U.S. once the limited purpose of the parole is completed (*Id.*). Instead of adhering to the laws established by Congress, the Biden Administration has implemented a series of policies that exploit parole to achieve the desired goal of mass releasing illegal aliens into American communities.

Currently, DHS is unlawfully administering four large-scale categorical parole programs for inadmissible aliens. The first, known as "[Operation Allies Welcome](#)," was the Biden Administration's response to the botched withdrawal from Afghanistan in fall 2021 (U.S. Department of Homeland Security, 2023). The administration claimed it was paroling only Afghan "evacuees" who assisted in the war effort, but the reality is tens of thousands of [unvetted](#) Afghans were allowed into the U.S. (Law, 2022). The second, known as "[Uniting for Ukraine](#)," was in response to the conflict between Russia and Ukraine. In that case, DHS paroled Ukrainians into the U.S. who did not qualify for a visa if they had a U.S. sponsor, even if it was not a relative (U.S. Citizenship and Immigration Services, 2023b). Third, DHS repurposed the [CBP One](#) mobile app to have illegal aliens at the southern border schedule appointments to be paroled into the U.S. through a port of entry to hide the optics from the American people of illegal aliens pouring across the border (U.S. Customs and Border Protection, 2023). Initially, DHS was handling 1,000 appointments per day beginning on May 12, 2023 (the day after Title 42 ended), but they are now processing 1,450 illegal aliens per day. Fourth, beginning in January 2023, DHS created a categorical parole program allowing up to 30,000 illegal aliens per month (or 360,000 per year) from Cuba, Haiti, Nicaragua, and Venezuela ([CHNV](#)) (U.S. Citizenship and Immigration Services, 2023a). Through June 2023, DHS has unlawfully paroled at least [541,000 illegal aliens](#) into American communities, and it is expected to parole at least another 500,000 per year through CHNV and CBP One appointments (Montoya-Galvez, 2023).

This scheme, which the Biden Administration falsely calls "new lawful pathways," allows these illegal aliens to become eligible immediately for a work permit and have the opportunity to live in the U.S. indefinitely without threat of removal under the current administration's non-enforcement policies. In contrast, illegal aliens who submit asylum claims, regardless of their merit, must wait six months before they can apply for a work permit. The combination of guaranteed entry to the U.S. with a work permit and minimal chance of future removal further fuels the Mexican cartels and human traffickers because migrants are able to begin repaying their debts.

Every illegal alien who makes it across the southern border, whether crossing the desert or river unlawfully, or showing up at a port of entry without a visa, does so after paying smuggling or trafficking fees to the Mexican cartels. The fees are extensive and beyond the means of most migrants. For example, the cartels [reportedly](#) charge Mexican nationals around \$8,600, while migrants from the Northern Triangle countries of El Salvador,



Honduras, and Guatemala are on the hook for \$11,500 (Dinan, 2022). Migrants from Brazil and Ecuador are [charged](#) \$15,000 to be smuggled or trafficked across the southern border (Rouhandeh, 2021). The fee [varies](#) widely for nationals farther from the U.S., with Africans charged \$2,200, Europeans around \$6,400, and Chinese around \$75,000 (Open Borders, n.d.).

The typical migrant does not have the financial means to pay the smuggling fees up front. According to the World Bank, the gross domestic product (GDP) per capita in Mexico is \$11,091 (World Bank, n.d.d); in El Salvador it is \$5,127 (World Bank, n.d.b); and in Guatemala it is \$5,473 (World Bank, n.d.c). The World Bank calculates the overall GDP per capita in China at \$12,720, although there are regional disparities (World Bank, n.d.a). To account for this shortfall, most migrants make a down payment, then get placed on a payment plan by the cartels and human traffickers. Typically, the cartels and traffickers house the migrants—in order to control them—and deduct a portion of their smuggling fees and other expenses from their wages until the debt is settled. Tragically, many parents hand over their children to be repeatedly trafficked by unrelated adults who falsely present themselves to CBP officers as a family unit. This practice, known as fraudulent families, is common because of Biden Administration policies that allow nearly all illegal alien “family units” into the U.S., combined with the decision to discontinue DNA testing at the border to validate the familial relationship. These migrant parents hand over their children to participate in this scheme to reduce their debts, but many find themselves subjected to sex slavery and harsh debt bondage working conditions for many years.

The work permit is not the only benefit afforded to paroled illegal aliens that the cartels and traffickers promote to vulnerable migrants to entice additional smuggling and trafficking. In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) to restrict alien eligibility for taxpayer benefits programs. Through PRWORA, Congress requires an alien to be a “qualified alien” to be eligible to receive “federal public benefits” (8 U.S.C. 1611). The law also requires qualified aliens to wait at least five years before they become eligible to receive any “Federal means-tested public benefit” (8 U.S.C. 1613). Below is a non-exhaustive list of U.S. taxpayer-funded benefits available to paroled aliens that have the unintended consequence of providing additional revenue streams to repay the cartels and human traffickers.

### **Aliens Paroled into the U.S. for Less than One Year**

As previously described, once paroled into the U.S., illegal aliens are immediately eligible for a work permit, known as an Employment Authorization Document. Aliens with these work permits, including those here unlawfully, are able to obtain a Social Security number. Importantly, once an alien obtains a Social Security number, he or she is eligible to claim the Earned Income Tax Credit (26 U.S.C. 32(m)).



That is just the beginning of the taxpayer-funded benefits that illegal aliens can obtain while in the U.S. with parole. Illegal aliens are eligible for health coverage under the Affordable Care Act (ACA). While Congress limited enrollment in the healthcare exchanges to “an alien lawfully present,” the legislation failed to define that term (Pub. L. 111-148 and Pub. L. 111-152 (collectively the Affordable Care Act); 42 U.S.C. 18032(f)(3)). Through the implementing regulations, the Obama Administration’s Department of Health and Human Services (HHS) defined “lawfully present” to include aliens who have been in the U.S. with parole for less than one year (45 C.F.R. § 152.2; 45 C.F.R. § 155.20; 26 C.F.R. § 1.36B-1(g)).

In fact, these illegal aliens are immediately eligible for benefits under the ACA. While a casual observer would reasonably believe that the ACA is a “federal public benefit” and limited to “qualified aliens” and the five-year waiting period, HHS has not included the healthcare law in the regulatory definition of either “federal public benefit” or “federal means-tested public benefit” (63 Fed. Reg. 41658 – 41611; 62 Fed. Reg. 45256). The failure of HHS to define these healthcare benefits appropriately bypasses the protection to U.S. taxpayers Congress intended through the PRWORA.

Additionally, illegal aliens with parole for less than one year are immediately eligible for unemployment benefits. Each state administers its own unemployment insurance program, but they are all based on the Federal Unemployment Tax Act. This law established that aliens paroled into the U.S. for less than one year are eligible for unemployment benefits as long as they satisfy the program’s other requirements (26 U.S.C. 3304(a)(14)(A)). Similar to the ACA, unemployment benefits are not included as a “federal public benefit” or a “federal means-tested public benefit,” so the PRWORA restrictions do not apply (63 Fed. Reg. 41658 – 41611; 62 Fed. Reg. 45256).

Paroled aliens also become eligible for Social Security retirement benefits and Medicare as “lawfully present” aliens, provided they meet the other eligibility criteria. For example, Congress specifically exempted retirement benefits from the list of federal public benefits that require an alien to be a “qualified alien” for at least five years under PRWORA (8 U.S.C. 1611(b)(2)). Instead, the Social Security Act only requires aliens to be “lawfully present,” which the implementing regulations define to include aliens paroled into the U.S. for less than one year (8 U.S.C. 1611(b)(2); 42 U.S.C. 402(y)); 8 C.F.R. 103.12(a)(3)). Therefore, a parolee can obtain Social Security once he or she has worked at least 40 quarters, despite lacking a lawful immigration status (42 U.S.C. 414).

Similarly, aliens with parole for less than one year are eligible for Medicare because Congress exempted this benefit from the list of federal public benefits that require an alien to be a “qualified alien” for at least five years. Instead, Congress allows “lawfully present” aliens with sufficient authorized work history and appropriate age to qualify. For



example, Medicare Part A benefits for inpatient care are available to parolees who are at least 65 years old and eligible for Social Security benefits if the eligibility is based on authorized work history (42 U.S.C. 1395c; 8 U.S.C. 1611(b)(3)). Additionally, once parolees are eligible for Medicare Part A, they are also eligible for Medicare Part B—for outpatient care—and Part D—for prescription drugs (42 U.S.C. 1395o; 42 U.S.C. 1395w-101(a)(3)(A)).

Lastly, illegal alien children and pregnant women with parole are potentially eligible for Medicaid and State Children’s Health Insurance Program (SCHIP) healthcare benefits. When Congress passed the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA), states were given the option to make “lawfully residing” children—defined as under age 21—and pregnant women eligible for health benefits through Medicaid and SCHIP (sec. 214, Pub. L. 111-3). This carveout essentially exempted Medicaid and SCHIP from the restrictions imposed by PWROA in states that opted to cover them. In 2010, HHS issued a [letter](#) advising states that the agency defines “lawfully residing” for purposes of CHIPRA eligibility to include aliens who are “lawfully present” and reside in the state (U.S. Department of Health and Human Services, 2010).

### **Aliens Paroled into the U.S. for More than One Year**

After a year with parole, illegal aliens become “qualified aliens” under PRWORA and are treated the same as lawful permanent residents (green card holders) for purposes of additional taxpayer-funded benefits (8 U.S.C. 1641(b)(4)). Qualified aliens, regardless of how they meet that definition, are eligible for “federal public benefits,” which include “any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit...” (8 USC 1611(c)(1)(B)). By regulation, HHS defines “federal public benefits” to include Medicaid, SCHIP, and Temporary Assistance for Needy Families (TANF) (63 Fed. Reg. 41658). This means that aliens who become qualified aliens through having parole for more than one year remain eligible for all of the benefits they were eligible for upon receiving parole, plus additional benefits, most notably welfare (*See* 45 C.F.R. 152.2; 26 U.S.C. 3304(a)(14)(A); 8 C.F.R. 103.12(a)(1); 42 U.S.C. 1395c; 42 U.S.C. 1395o; 42 U.S.C. 1395w-101(a)(3)(A)).

Finally, all parolees will eventually become eligible for SCHIP and TANF. HHS classifies these two programs as “federal means-tested public benefits” (63 Fed. Reg. 41658 – 41611; 62 Fed. Reg. 45256). Under PRWORA, an alien must be a qualified alien for at least five years before becoming eligible for “federal means-tested public benefits,” such as SCHIP and TANF. Therefore, six years after illegal aliens are paroled into the U.S., they are eligible for every major taxpayer-funded assistance program.





## Conclusion

The Biden Administration's response to the humanitarian and security crisis at the southern border involves abusing the parole authority to continue allowing record numbers of illegal aliens into American communities under the guise of legality. As a result of loose statutory and regulatory definitions, parole opens doors to financial aid that is not available to migrants who make fraudulent and frivolous asylum claims. The cartels and human smugglers likely know about these benefits and market them to vulnerable migrants, further fueling the abuse and exploitation by these bad actors. The Biden Administration has already paroled at least 541,000 illegal aliens into the U.S., making them immediately eligible for certain benefits and starting the clock on their becoming qualified aliens for purposes of unlocking even more benefits (Montoya-Galvez, 2023). Unless the courts block the administration's abuse of parole, at least half a million additional illegal aliens per year will continue to be paroled into the U.S., and the American people will be on the hook for billions of dollars in welfare and other public benefits they access.



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