



Resolution Supporting Immigration and Customs Enforcement’s Exercising of Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Department of Homeland Security for the Apprehension, Detention, and Removal of Aliens

WHEREAS, the Coalition of Bar Associations of Color (CBAC), organized in 1983, is a coalition created to act as a collective voice for issues of common concern to its member organizations; and

WHEREAS, the member organizations of the CBAC are the Hispanic National Bar Association (HNBA), the National Asian Pacific American Bar Association (NAPABA), the National Bar Association (NBA), and the National Native American Bar Association (NNABA); and

WHEREAS, U.S. Immigration and Customs Enforcement (“ICE”) is the federal agency that is responsible for the enforcement of immigration law of the United States, in coordination with U.S. Customs and Border Protection (“CPB”) and U.S. Citizenship and Immigration Services (“USCIS”); and

WHEREAS, ICE has limited resources to remove those who are present in the United States in violation of their immigration status; and

WHEREAS, ICE must prioritize the use of its enforcement personnel, detention space, and removal assets to ensure that the aliens it removes represent, as much as reasonably possible, the agency’s enforcement priorities, namely the promotion of national security, border security, public safety, and the integrity of the immigration system; and

WHEREAS, ICE is confronted with more administrative violations than its resources can address, ICE must regularly exercise “prosecutorial discretion” if it is to prioritize its efforts; and

WHEREAS, in basic terms, “prosecutorial discretion” is the authority of an agency charged with enforcing a law to decide to what degree to enforce the law against a particular individual; and

WHEREAS, ICE, like any other law enforcement agency, has prosecutorial discretion and may exercise it in the ordinary course of enforcement; and

WHEREAS, when ICE favorably exercises prosecutorial discretion, it essentially decides not to assert the full scope of the enforcement authority available to the agency in a given case; and

WHEREAS, prosecutorial discretion in civil immigration enforcement matters is held by the Director of ICE and may be exercised, with appropriate supervisory oversight, by its agents, officers, attorneys, and other authorized personnel; and

WHEREAS, ICE has outlined the factors that it may consider to evaluate whether the exercising of prosecutorial discretion is warranted in a given case, including, but are not limited to:

- The agency’s civil immigration enforcement priorities;
- The person’s length of presence in the United States, with particular consideration given to presence while in lawful status; and
- The circumstances of the person’s arrival in the United States and the manner of his or her entry, particularly if the alien came to the United States as a young child; and
- The person’s pursuit of education in the United States, with particular consideration given to those who have graduated from a U.S. high school or have successfully pursued or are pursuing a college or advanced degrees at a legitimate institution of higher education in the United States; and
- Whether the person, or the person’s immediate relative, has served in the U.S. military, reserves, or national guard, with particular consideration given to those who served in combat; and
- The person’s criminal history, including arrests, prior convictions, or outstanding arrest warrants; and
- The person’s immigration history, including any prior removal, outstanding order of removal, prior denial of status, or evidence of fraud; and
- Whether the person poses a national security or public safety concern; and
- The person’s ties and contributions to the community, including familial relationships; and
- The person’s ties to the home country and conditions in the country; and
- The person’s age, with particular consideration given to minors and the elderly; and
- Whether the person has a U.S. citizen or permanent resident spouse, child, parent; and
- Whether the person is the primary caretaker of a person with a mental or physical disability, minor, or a seriously ill relative; and
- Whether the person or the person’s spouse is pregnant or nursing; and
- Whether the person or the person’s spouse suffers from severe mental or physical illness; and
- Whether the person’s nationality renders removal unlikely; and
- Whether the person is likely to be granted temporary or permanent status or other relief from removal, including as an asylum seeker, or as a victim of domestic violence, human trafficking, or other crime; and

- Whether the person is currently cooperating or has cooperated with federal, state, or local law enforcement authorities, such as ICE, the U.S. Attorneys Office or Department of Justice, the Department of Labor, or National Labor Relations Board, among others; and

WHEREAS, these factors are reasonable, and the exercising of prosecutorial discretion based on these factors would result in the best use of ICE resources in removing individuals who post the most danger to society.

NOW THEREFORE BE IT RESOLVED, that the CBAC calls for full support of the exercising of Prosecutorial Discretion as outlined in the “June 17, 2011” memorandum authored by ICE Director John Morton; and

THEREFORE BE IT FURTHER RESOLVED, that the CBAC authorizes the communication of the content of this resolution to members of the U.S. Senate, members of the U.S. House of Representatives, the press, and to others the CBAC deems appropriate to receive the information; and

THEREFORE BE IT FINALLY RESOLVED, that this resolution shall be the legislative priority of the CBAC until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

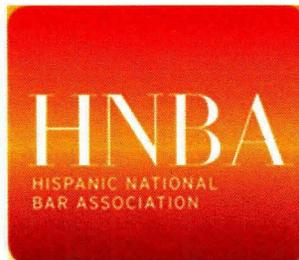
We, the duly elected leadership of the Hispanic National Bar Association, the National Asian Pacific American Bar Association, the National Bar Association, and the National Native American Bar Association, hereby certify that this resolution was duly enacted by the CBAC at its annual meeting on the 16th of May 2012.



National Asian Pacific American Bar Association

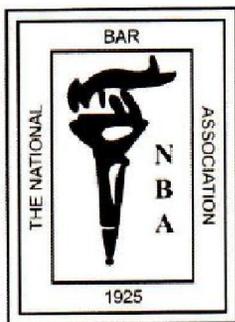
A handwritten signature in blue ink that reads 'Wendy C. Shiba'.

Wendy Shiba
President-Elect, National Asian Pacific American Bar Association



A handwritten signature in blue ink that reads 'Peter M. Reyes, Jr.'.

Peter M. Reyes, Jr.
President-Elect, Hispanic National Bar Association



A handwritten signature in blue ink that reads 'Daryl Parks'.

Daryl Parks
President, National Bar Association



A handwritten signature in blue ink that reads 'Patty Ferguson-Bohnee'.

Patty Ferguson-Bohnee
President, National Native American Bar Association