THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

EXECUTIVE ORDER No. 41

September 17, 2003

CITY-WIDE PRIVACY POLICY AND AMENDMENT OF EXECUTIVE ORDER NO. 34 RELATING TO CITY POLICY CONCERNING IMMIGRANT ACCESS TO CITY SERVICES

WHEREAS, it is the policy of the City of New York to promote the utilization of its services by all of its residents who are entitled to and in need of them; and

WHEREAS, individuals should know that they may seek and obtain the assistance of City agencies regardless of personal or private attributes, without negative consequences to their personal lives; and

WHEREAS, the obtaining of pertinent information, which is essential to the performance of a wide variety of governmental functions, may in some cases be difficult or impossible if some expectation of confidentiality is not preserved, and preserving confidentiality in turn requires that governments regulate the use of such information by their employees; and

WHEREAS, in furtherance of this policy, confidential information in the possession of City agencies relating to immigration status or other personal or private attributes should be disclosed only as provided herein;

NOW, THEREFORE, by virtue of the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. As used herein, "confidential information" means any information obtained and maintained by a City agency relating to an individual's sexual orientation, status as a victim of domestic violence, status as a victim of sexual assault, status as a crime witness, receipt of public assistance, or immigration status, and shall include all information contained in any individual's income tax records.

Section 2. No City officer or employee shall disclose confidential information, unless

(a) such disclosure has been authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by such individual's parent or legal guardian; or

(b) such disclosure is required by law; or

(c) such disclosure is to another City officer or employee and is necessary to fulfill the purpose or achieve the mission of any City agency; or

(d) in the case of confidential information other than information relating to immigration status, such disclosure is necessary to fulfill the purpose or achieve the mission of any City agency; or

(e) in the case of information relating to immigration status, (i) the individual to whom such information pertains is suspected by such officer or employee or such officer's or employee's agency of engaging in illegal activity, other than mere status as an undocumented alien or (ii) the dissemination of such information is necessary to apprehend a person suspected of engaging in illegal activity, other than mere status as an undocumented alien or (iii) such disclosure is necessary in furtherance of an investigation of potential terrorist activity.

Agencies shall promulgate such rules as may be appropriate to detail circumstances in which confidential information may or may not be disclosed pursuant to this executive order. Any City officer or employee with a question relating to the disclosure of confidential information under this section shall consult with the general counsel of such officer's or employee's agency.

Section 3. Section 2 of Executive Order No. 34, dated May 13, 2003, is amended by adding a new subdivision d to read as follow:

d. "Illegal activity" means unlawful activity but shall not include mere status as an undocumented alien.

Section 4. Sections 3 and 4 of such Executive Order are amended to read as follows:

Section 3. Information respecting aliens.

a. A City officer or employee, other than law enforcement officers, shall not inquire about a person's immigration status unless:

(1) Such person's immigration status is necessary for the determination of program, service or benefit eligibility or the provision of City services; or

(2) Such officer or employee is required by law to inquire about such person's immigration status.

Section 4. Law Enforcement Officers.

a. Law enforcement officers shall not inquire about a person's immigration status unless investigating illegal activity other than mere status as an undocumented alien.

b Police officers and peace officers, including members of the Police Department and the Department of Correction, shall continue to cooperate with federal authorities in investigating and apprehending aliens suspected of criminal activity.

c. It shall be the policy of the Police Department not to inquire about the immigration status of crime victims, witnesses, or others who call or approach the police seeking assistance.

Section 5. This Order shall take effect immediately.

Michael R. Bloomberg

MICHAEL R. BLOOMBERG
MAYOR