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

Executive Order No. 124

August 7, 1989

CITY POLICY CONCERNING ALIENS

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

Section 1. Definitions. As used herein,

a. "Alien" means any person who is not a citizen or national of the United States.

b. "Line worker" means a person employed by any City agency whose duties involve contact with the public.

Section 2. Confidentiality of Information Respecting Aliens.

a. No City officer or employee shall transmit information respecting any alien to federal immigration authorities unless

(1) such officer's or employee's agency is required by law to disclose information respecting such alien, or

(2) such agency has been authorized, in writing signed by such alien, to verify such alien's immigration status, or

(3) such alien is suspected by such agency of engaging in criminal activity, including an attempt to obtain public assistance benefits through the use of fraudulent documents.

b. Each agency shall designate one or more officers or employees who shall be responsible for receiving reports from such agency's line workers on aliens suspected of criminal activity and for determining, on a case by case basis, what action, if any, to take on such reports. No such determination shall be made by any line worker, nor shall any line worker transmit information respecting any alien directly to federal immigration authorities.

c. Enforcement agencies, including the Police Department and the Department of Correction, shall continue

to cooperate with federal authorities in investigating and apprehending aliens suspected of criminal activity. However, such agencies shall not transmit to federal authorities information respecting any alien who is the victim of a crime.

Section 3. Availability of City Services to Aliens. Any service provided by a City agency shall be made available to all aliens who are otherwise eligible for such service unless such agency is required by law to deny eligibility for such service to aliens. Every City agency shall encourage aliens to make use of those services provided by such agency for which aliens are not denied eligibility by law.

Section 4. Effective Date. This order shall take effect 30 days after publication in the City Record.

EDWARD I. KOCH
MAYOR

Statement of Basis and Purpose of Executive Order. Section 3 of the New York City Charter provides that the Mayor "shall be the chief executive officer of the city." The New York State Court of Appeals has stated that the Mayor's authority in that capacity "does, of course, include the power to enforce and implement legislative enactments." Under 21 v. City of New York, 65 N.Y. 2d 344, 356 (1985).

Many services provided by New York City, including education and police protection, are available to all City residents regardless of their citizenship or immigration status. However, many aliens who reside in the City fail to make use of such services, largely from fear that any contact with a government agency will bring them to the attention of federal immigration authorities. It is to the disadvantage of all City residents if some who live in the City are uneducated, inadequately protected from crime, or untreated for illness. Regardless of their immigration status, aliens should not be discouraged from utilizing those City services to which they are entitled. On the contrary, the public welfare requires that they be encouraged to do so. Yet many aliens will continue to avoid City agencies as long as they fear that they will be reported to federal immigration authorities.

Federal law places full responsibility for immigration control on the federal government. With limited exceptions, the City therefore has no legal obligation to report any alien to federal authorities. The executive order, in recognition of this lack of obligation and the importance of providing the services covered herein, requires City agencies to preserve the confidentiality of all information respecting law-abiding aliens to the extent permitted by law. City agencies are also prohibited hereby from arbitrarily excluding aliens from eligibility for services which are available to all. In this way, it is hoped, aliens will be encouraged to make use of City services to which they are entitled by law.