

NYIC IMMIGRATION NEWS

An update by the New York Immigration Coalition on issues affecting immigrants and their communities.

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CITY ISSUES

City Issues Flawed New Confidentiality Policy in Executive Order 34

On May 30, City officials announced a new policy that prohibits City workers, except police officers, from inquiring into a person's immigration status, unless it is relevant to determining eligibility for a program, service or benefit, relevant to the provision of City services, or required by law. The policy is set forth in Executive Order 34 (EO34), dated May 13.

EO34 rightly recognizes that City workers should not be permitted to intimidate immigrant New Yorkers by unnecessarily questioning them about their immigration status. Unfortunately, EO34's goal of ensuring access to services is undercut because of two factors: first, police are exempted from the order's key provisions; and second, the order does not prevent the disclosure of immigration status information.

Because it exempts police, EO34 does nothing to alleviate immigrants' fear of interacting with police. Advocates have documented numerous instances where immigrant crime victims, including a 16-year-old Mexican rape victim, did not contact the police because they feared police would report them to immigration authorities. Regrettably, EO34 makes no attempt to limit the situations in which police can ask for proof of immigration status.

EO34 also fails to address the lack of protection in City law against *disclosure* of immigration status information. Without such "don't tell" provisions, City workers or police officers who learn of someone's immigration status can share that information with third parties, including federal immigration authorities.

Bloomberg administration officials have voiced concerns about the legality of "don't tell" provisions, despite indications from federal court that such policies could be valid. For many years, City law included "don't tell" protections in the form of Executive Order 124. That order, originally enacted in 1989 by Mayor Ed Koch, prohibited the disclosure of information about any noncitizen to federal immigration authorities except in limited circumstances. In 1999, however, a federal appeals court invalidated the executive order because it conflicted with 1996 federal welfare and immigration laws. Even so, the court decision suggests that a more generalized confidentiality policy that is necessary to the performance of legitimate municipal functions and that limits disclosure of a wider range of confidential information, beyond immigration status, could be valid.

Meanwhile, in December of last year, the City Council introduced legislation that would craft a broader confidentiality policy in accordance with the 1999 federal

court ruling. Intro. 326, *Access Without Fear*, would create a "don't ask" policy similar to EO34, but also would include "don't tell" provisions that would prohibit City workers, including police officers, from disclosing various types of confidential information, including immigration status, health or disability status, and sexual orientation.

Passage of a new confidentiality policy that includes both "don't ask" and "don't tell" provisions remains a top priority for the NYIC and its 160 member organizations. Earlier this month, immigrant and civil rights groups held a press conference to urge the Mayor and the City Council to work together to pass a more comprehensive confidentiality policy, such as Intro. 326, so that New York's immigrant families, which constitute two-thirds of the City's residents, will feel safe interacting with City workers and police officers. For more information, call Chung-Wha at ext. 228.

New Law Provides Protections for Domestic Workers

On June 3, Mayor Bloomberg signed the country's first law designed specifically to protect domestic workers. The bill-signing ceremony followed the City Council's 49-0 vote in favor of the legislation, Intro. 96-A, on May 14. The law signals an important first step in gaining greater government protections and improving working conditions for the city's domestic workers. Congratulations to Domestic Workers United and participants in the "Dignity for Domestic Workers" campaign on this significant victory!

The law requires employment agencies that place domestic workers to provide employees with a written statement of job conditions to prevent employers from unfairly altering terms such as hours or duties, and a list describing workers' right to benefits such as minimum wage, overtime, breaks, and time off. Agencies must also require employers to sign a document, which agencies must keep on file for three years, detailing their legal obligations to domestic workers. For more information, contact CAAAV at 718-220-7391.

IMMIGRATION

Justice Department Inspector General Issues Report on September 11 Detainees

The Inspector General of the U.S. Department of Justice issued a special report on June 2nd examining the treatment of the 762 persons detained for immigration offenses following the September 11 attacks. The report details "significant problems," such as a pervasive "hold until cleared" policy that resulted in people being detained for an average of 80 days, restricted and inconsistent

access to counsel, and “unduly harsh” conditions of confinement. The full text of the report is available at <http://www.justice.gov/oig/special/0306/full.pdf>. For more information, contact Norman at ext. 235.

DHS Announces Plans for US-VISIT System

The Department of Homeland Security (DHS) announced plans to launch a new entry-exit system that will track all individuals entering or exiting the United States at every air and sea port of entry in the country. The United States Visitor and Immigrant Status Indicator Technology (US-VISIT) system will be run by the Bureau of Immigration and Customs Enforcement (BICE) and is expected to begin operation on January 1, 2004.

Under the system, all persons who enter and exit the United States will be photographed and fingerprinted, and their travel documents will be scanned. Additional biometric identifiers such as facial recognition or iris scans may be incorporated as technology becomes available.

The US-VISIT system will collect biographical and immigration status information, including visa number, date and place of visa issuance, alien registration number, and U.S. address. This information will be shared with inspectors at ports of entry, BICE special agents, adjudications staff at immigration services offices, U.S. consular offices, and other law enforcement agencies.

According to DHS, this biometric system will be able to identify persons prohibited from entering the United States by checking their information against lists of those who should be denied entry for reasons such as terrorist connections, criminal violations, or past visa violations. The system also will indicate whether someone has overstayed his or her visa. In addition, the system will identify persons with a pending application for an immigration benefit (e.g., adjustment of status) and persons in need of special protection (e.g., refugees).

Unlike programs such as special registration, which singled out males from Arab and Muslim countries for selective enforcement, the US-VISIT system will uniformly apply to all individuals who enter and leave the United States. However, DHS has not addressed how it will ensure the accuracy of information entered into the system, and how that information will be kept up-to-date. These pose major challenges, made more difficult by the enormous backlog of applications accumulating at the immigration services bureau, including hundreds of thousands of change-of-address forms that have not been processed. To learn more, contact Norman at ext. 235.

Special Call-In Registration Numbers and Statistics Disclosed by BCIS; No Plans for More Call-Ins

At a meeting on May 20, 2003, the Bureau of Citizenship and Immigration Services (BCIS) indicated that Special Call-In Registration had ended with the last deadline on April 25, 2003, and that there were no plans to require persons from other countries to register under the call-in program. Call-in registration required males over

the age of 16, from 25 primarily Arab and Muslim countries, who had entered the country on nonimmigrant visas prior to dates in September 2002, to be fingerprinted, photographed, and questioned by immigration authorities.

At the same meeting, BCIS provided the following figures on call-in registration, current as of May 11, 2003: 82,581 persons registered; 13,153 Notices to Appear issued; 2,761 persons detained overall; 158 persons still detained; 2 persons deported; and 0 persons charged with terrorism-related crimes. Many have opted for voluntary departure as an alternative to deportation. Whether they take voluntary departure or not, the majority of the 13,153 men placed in proceedings face exile from this country.

The BCIS asserts that call-in registration has resulted in numerous leads in the investigation of terrorism. Despite this assertion, none of the 82,581 men who were forced to register has been charged with a terrorism-related crime. To learn more, contact Dan at ext. 226.

ANNOUNCEMENTS

National Survey of SSA No-Match Letters

The National Immigration Law Center and other groups are conducting a national survey of workers who have received a “no-match” letter from the Social Security Administration (SSA). The survey will document the problems experienced by workers as a result of no-match letters. SSA sends no-match letters to employers when there is a discrepancy between the employer’s records and SSA’s database concerning an employee’s name or Social Security Number. Some employers have used the letters as a basis to fire the named employees, even though the letters are not evidence of undocumented status. The anonymous survey is 2 pages, takes 10 minutes to complete, and is available in English and Spanish. Information will be kept strictly confidential. If you can help distribute the survey, contact Donya at ext. 239.



ACTIONS YOU CAN TAKE RIGHT NOW TO HELP PROTECT IMMIGRANTS’ RIGHTS

1. **Urge your City elected officials to support Intro. 326, Access Without Fear.** Call Mayor Bloomberg (212-788-9600), Speaker Miller (212-788-7210), and your Council Member (Council operator: 212-788-7100).
2. **Write to DHS officials to express concern about NSEERS and the US-VISIT system.** For a sample sign-on letter, contact Norman at ext. 235.
3. **Call Senators Schumer and Clinton and your Representative and urge them to develop legislative remedies for the problems outlined in the Inspector General’s report on 9/11 detainees.** The abuses documented in the report are appalling. We need legislation to restore fairness and due process in the treatment of immigrants. Capitol switchboard: 202-224-3121.

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