

A New Executive Order

by Chaleampon Ritthichai
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While walking back home from work, Chris Un was harassed by two men who shouted, threw soft drinks and threatened to hurt him. Un thought about calling the police, but remembered that a friend from the consulate had warned him about a new crackdown on undocumented immigrants.

"I was afraid that the police were going to arrest me instead," said Un, a former student who had overstayed his visa.

These kinds of fears were why the city had not allowed the police and city workers to question anyone's immigration status. But that changed in May when Mayor Michael Bloomberg issued Executive Order 34 allowing the city's agencies, including police, to report illegal immigrants to the federal government.

Un is among many of the 400,000 illegal aliens in New York who came to believe that the order was an anti-immigrant measure.

After months of intense pressure from immigrant advocacy groups and the City Council, Bloomberg finally issued a new executive order in September.

Executive Order 41, dubbed as "don't ask, don't tell," replaces Executive Order 34 and prohibits city agencies from inquiring or disclosing immigration status of New Yorkers who come into contact with city government.

"This gives assurances to all law-abiding New Yorkers that the confidentiality of information you give to the city will stay with the city," Bloomberg said.

Some argue that the mayor simply failed to clarify what Executive Order 34 was supposed to do, since similar policies have been successfully implemented with support from immigrants in other cities.

Designed to comply with the 1996 federal law, the language of Order 34 was vague enough that a literal reading of the order would allow police to make "sweeps of immigrants who are not suspected of any crime," attorney Scott Rosenberg told the Village Voice.

Until Order 34, every mayor since Ed Koch had followed a "don't tell" policy and didn't cooperate with the federal immigration agency. In 1996, Congress passed a law that said the city cannot forbid city workers from voluntarily reporting illegal aliens. Mayor Rudy Giuliani resisted but lost when the U.S. Court of Appeals for the Second Circuit affirmed the federal law and ruled in 1999 that Koch's policy was illegal.

Though similar to Koch's order, city officials said, Order 41 does not violate federal law since it follows guidelines from the 1999 ruling by making confidential a larger class of information -- for example income tax records, sexual orientation, status as a victim of domestic violence -- not just immigration status.

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Critics added that the mayor's change of heart comes at a time when he needs immigrant support, especially from the Hispanic community, to help boost his sinking job approval rating.

"Given the general erosion of his position in the opinion polls, Bloomberg really needs to have a strategy for rebuilding support in these constituencies," John Mollenkopf of the Center of Urban Research told the New York Times.

However, others are pleased with the new initiative and don't think that it matters whether the mayor has a political agenda. "What is really important is not the mayor's reasons but the end result of his decision to amend the order," wrote columnist Albor Ruiz in the Daily News. "Bloomberg actually made [Executive Order 41] the strongest local confidentiality policy in the nation."

But as Bloomberg took steps to protect New York City's illegal alien population, Congress was taking another to toughen federal immigration law. This past July, Representative Charles Norwood of Georgia introduced the Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act, which would allow local police to enforce federal civil immigration law. At the moment, local police can only enforce criminal immigration law. No one is quite sure how the CLEAR Act would affect Bloomberg's executive order.

An immigrant from Bangkok, Thailand, Chaleampon Ritthichai is the editor of [The Citizen](#).