

Chapter 44. - Employee Authority in Immigration Matters

Sec. 44.01. - Purpose and policy statement.

This chapter clarifies the communication and enforcement relationship between the city and the United States Department of Homeland Security ("homeland security") and other federal agencies with respect to the enforcement of civil immigration laws. The city works cooperatively with homeland security, as it does with all state and federal agencies, but the city does not operate its programs for the purpose of enforcing federal immigration laws. Homeland security has the legal authority to enforce immigration laws in the United States, in Minnesota and in the city. It is the policy of the city to respect the role of homeland security by avoiding pro-active enforcement of civil immigration laws. This chapter is not intended to limit the proper enforcement of generally applicable laws. It is the policy of the city that all residents are equally entitled to protection and that all residents should be able to access city services to which they are entitled, without regard to their immigration status under federal law.

(C.F. No. 04-316, § 1, 5-5-04)

Sec. 44.02. - General city services.

- (a) To the extent permitted by law, in determining eligibility for, and providing general city services, city employees shall be governed by the following requirements:
 - (1) City employees are to carry out their regular duties for the purpose of administering general city services and program. Employees may complete I-9 forms, may question a person regarding the I-9 form and documents supporting the I-9 form, and may allow homeland security to audit the I-9 forms as allowed by law. With the exception of inquiries allowed by law or as necessary for law enforcement purposes, no St. Paul city officer or employee should inquire into the immigration status of any person or request any documents or information verifying the immigration status of any individual. Employees shall comply with any properly issued subpoena for the production of documents or witnesses, even if related to immigration issues or issues of homeland security.
 - (2) City employees shall follow general city, state and federal guidelines to assess eligibility for services. City employees shall only solicit immigration information or inquire about immigration status when specifically required to do so by law or program guidelines as a condition of eligibility for the service sought. City employees may require evidence of a person's identity and

may ask to see a person's personal identifying documents only when specifically authorized and required to do so by the employee's work duties. Information about immigration status in the possession of or known to city employees and representatives, however received, shall not be maintained or recorded except as otherwise specifically required by law. The confidentiality of such information shall be maintained to the fullest extent permitted by the laws of the United States and the state, including the obligation to maintain the confidentiality of personal information under the Minnesota Government Data Practices Act. City employees shall not discriminate against any current or potential service users on the basis of any of the protected categories listed in the city's human rights ordinance, Legislative Code Chapter 183.02(5), or on the basis of immigration status.

- (3) Other than complying with lawful subpoenas, city employees and representatives shall not use city resources or personnel solely for the purpose of detecting or apprehending persons whose only violation of law is or may be being undocumented, being out of status, or illegally residing in the United States (collectively "undocumented").
 - (4) Where presentation of a state driver's license is customarily accepted as adequate evidence of identity, presentation of a photo identity document issued by the person's nation of origin, such as a driver's license, passport, or matricula consular (consulate-issued document), or of a photo identity document issued by any Minnesota county, shall not subject the person to an inquiry into the person's immigration status. This paragraph does not apply to I-9 forms.
- (b) General city services defined. General city services shall mean all city services excepting those services specifically listed as public safety services in section 44.03
 - (c) Supervisors of general city services employees shall include information regarding the city's policy and expectations as set forth in this chapter in the orientation of new employees and as part of their employees' on-going in-service training.
 - (d) City attorney's office. Civil division employees may investigate and inquire about immigration status when relevant to potential or actual litigation or an administrative proceeding.

(C.F. No. 04-316, § 1, 5-5-04)

Sec. 44.03. - Public safety services.

- (a) To the extent permitted by law, in providing public safety services, employees of the police and fire departments, and the city attorney's office - criminal division, (collectively, public safety officials), shall be governed by the following requirements:

- (1)

Public safety officials may not undertake any law enforcement action for the sole purpose of detecting the presence of undocumented persons, or to verify immigration status, including but not limited to questioning any person or persons about their immigration status.

- (2) City attorney's office - criminal division employees shall be permitted to:
 - a. Inform persons of the possible immigration consequences of a guilty plea.
 - b. Question and conduct cross-examination of a witness or defendant regarding immigration status.
 - c. Inquire about immigration status for purposes of bail or conditional release.
 - d. Investigate and inquire about immigration status when relevant to the potential or actual prosecution of the case or when immigration status is an element of the crime.
 - e. Take immigration status and collateral effects of possible deportation into consideration during discussions held for the purpose of case resolution.
 - (3) Public safety officials may not question, arrest or detain any person for violations of federal civil immigration laws except when immigration status is an element of the crime or when enforcing 8 U.S.C. 1324(c).
 - (4) Nothing in this chapter shall prohibit public safety personnel from assisting federal law enforcement officers in the investigation of criminal activity involving individuals present in the United States who may also be in violation of federal civil immigration laws.
 - (5) Nothing in this chapter prohibits public safety personnel from adequately identifying criminal suspects or assessing the risk of flight of criminal suspects.
 - (6) Where presentation of a state driver's license is customarily accepted as adequate evidence of identity, presentation of a photo identity document issued by the person's nation of origin, such as a driver's license, passport, or matricula consular (consulate-issued document), or of a photo identity document issued by any Minnesota county, shall not subject the person to an inquiry into the person's immigration status.
- (b) All such use of city public safety personnel under 44.03(a)(3) and (a)(4) shall be documented, including any applicable homeland security mission statement and operational guidelines, the reason for the dispatch of personnel, the name of the homeland security agent in charge, and the name of the officer authorizing the use of city personnel.
 - (c) Supervisors of public safety officials shall include information regarding the city's policy and expectations as set forth in this chapter, in the orientation of new employees and as part of their employees' on-going in-service training.

(C.F. No. 04-316, § 1, 5-5-04)

Sec. 44.04. - Complaints and discipline.

- (a) An employee of the city who violates this chapter may be subject to disciplinary action, such as oral reprimands, written reprimands, suspension without pay, and discharge, under the appropriate union contract, civil service commission rules, or department work rules.
- (b) Complaints of a violation by an employee of the city police department shall be received and investigated by the police internal integrity assurance unit and forwarded to the police civilian review commission. Complaints of a violation of this chapter by an employee of any other city department shall be received and investigated by the director of the office of human resources. The results of any such investigation shall be provided to the complainant in writing within ninety (90) days of receipt of the complaint. Complainants and witnesses shall not be asked to provide their immigration status at any point during the complaint process, and no investigation of the immigration status of the complainant and witnesses shall be made by any city personnel in the investigation of such a complaint or thereafter.
- (c) It shall not be a violation of this chapter to require the completion of I-9 forms .
- (d) The city office of human resources, in consultation with the police civilian internal affairs review commission and affected communities, shall prepare and file in April of each year with the city council and the mayor an annual report and recommendations regarding the implementation of this chapter.

(C.F. No. 04-316, § 1, 5-5-04)

Sec. 44.05. - Subpoena.

Nothing in this chapter prohibits city employees from responding to a properly issued subpoena.

(C.F. No. 04-316, § 1, 5-5-04)

Sec. 44.06. - No intent to create private cause of action.

Nothing in this chapter is intended to create a private cause of action for violations of this chapter.

(C.F. No. 04-316, § 1, 5-5-04)

Sec. 44.07. - Severability.

If a section of this chapter is found to be invalid for any reason, the remaining sections of the chapter shall continue in full force and effect.

(C.F. No. 04-316, § 1, 5-5-04)