

On crime policy, Santa Clara County takes a cutting-edge -- some say risky -- approach

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Members of the Probation Department of Santa Clara County question an inmate during... (Gary Reyes)

Long overshadowed by freethinking San Francisco, Berkeley and now protest-roiled Oakland, Santa Clara County has been eclipsing its lefty neighbors lately -- with criminal justice policies that critics blast as risky but supporters call cutting-edge.

From its controversial stand against a federal policy on detaining jailed illegal immigrants to its open-arms, welcome-home stance toward newly freed state prisoners, Santa Clara County has struck the kind of permissive chord that puts Fox News pundits in a lather.

"The county is shaping up to be one of the most progressive in the state on reforming the criminal justice system," said Allen Hopper, police practices director of the ACLU of Northern California.

To be sure, prosecutors and judges in Santa Clara County are still filing stiffer charges and putting people behind bars longer than in San Francisco. But on the immigration front, the Board of Supervisors late last month approved a policy that made Santa Clara County only the second jurisdiction in the nation to defy U.S. Immigration and Customs Enforcement, known as ICE. Chicago's Cook County was the first.

Now, the Santa Clara County sheriff releases illegal immigrants with a history of committing serious or violent crimes onto the streets unless ICE pays to detain them -- and so far the feds are refusing to cough up the money. Even San Francisco County has retreated from its previous extremely lenient illegal-immigration policy after

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undocumented juveniles it protected went on to commit well-publicized murders.

In addition, Santa Clara County's willingness to experiment with rehabilitating rather than simply locking up nonviolent felons under the state's massive new "realignment" of the criminal justice system is generating such interest that Stanford and Santa Clara universities are holding law school seminars this year devoted to studying it. The county, for example, is the only one in the state reaching out to prison inmates before they return home under the new supervision of county probation officers. Local officials are showering the prisoners with offers of job training, places to live and even free medication.

"I'm proud of the county," said Supervisor Dave Cortese. "I feel we are moving as much as we can toward a system of restorative justice rather than punitive" justice.

But some think the county is going too far -- particularly with its new immigration policy, which passed on a 3-1 vote. Mike Wasserman, the only Republican on the board, opposed the new policy, and Supervisor Liz Kniss was absent. Kniss last week refused to say where she stands on the issue.

After the vote, District Attorney Jeff Rosen and Sheriff Laurie Smith warned that freeing illegal immigrants whose previous records include violent crimes, instead of holding them 24 hours for ICE, poses a risk that they may go on to victimize others.

"I think they're just playing with dynamite," said Don Gage, a former longtime Republican county supervisor who represented South County. "I wouldn't have voted for it either."

Advocates, on the other hand, say any alliance with ICE in the face of anti-immigrant laws in Arizona, South Carolina, Georgia, Utah, Indiana and Alabama -- as well as the recent presence of two ICE agents on a San Jose police gang unit -- could create an even bigger risk by undermining immigrant communities' trust in the police, making people afraid to report crimes as witnesses or even as victims. In a recent local case, two San Jose brothers who are illegal immigrants badly beat a man who molested an 8-year-old girl in their household rather than call the police, partly out of fear of being deported.

Since even progressive politicians in California tend to be cautious on public safety issues -- especially in San Jose, which likes to boast that it's one of the nation's safest big cities -- how did Santa Clara County wind up a darling of the ACLU?

Actually, until the dot-com bust and the state's fiscal crunch, the county had long been known as "Santa Claus County," largely because of its extensive mental health programs and take-all-comers public hospital.

And in recent years, the county has become known as one of the few in the country to adopt "nanny state" and environmental laws such as bans on plastic bags and Happy Meal toys -- and for requiring certain

restaurants to post calorie counts.

On realignment, the county was able to draw on its previous positive experience with juvenile-justice reform programs, which have reduced the number of kids in juvenile hall and shifted the emphasis at youth ranches from punishment to rehabilitation. So when the state set out to trim its prison population and costs by unloading responsibility this fall for incarcerating and rehabilitating thousands of lower-level felons on local governments, Santa Clara County was ready.

The liberal view on the immigration issue prevailed for at least three reasons.

The policy stems from a federal program called Secure Communities meant to snare noncitizen immigrants -- both illegal and legal -- with criminal histories. The program requires local jailers to share the fingerprints of everyone booked with ICE. Santa Clara County leaders tried to avoid complying with the program out of concerns about community trust and the breakup of families.

Since May 2010, when the county was forced to take part, it has sought ways to reduce its role. So it leapt at the opportunity to do so after Cook County led the way.

Another factor was the influence of Supervisor George Shirakawa Jr., who is part Latino and part Japanese-American -- and the only minority on the board. He represents the 2nd District, which includes East San Jose and is 56 percent Latino. He has gone so far as to say that U.S. citizens and illegal immigrants "should be treated equally" in the criminal justice system.

The policy also was pushed by a well-organized alliance of groups, including PACT, the Asian Law Alliance, the Service for Immigrant Rights and Education Network and Sacred Heart Community Service, a secular nonprofit that provides food, adult education and other services to the needy.

The groups told the board that community trust between the immigrant community and law enforcement hit an all-time low in the summer when two ICE agents began collaborating with San Jose police after a rash of gang homicides.

Community organizers have coined a term that could put Santa Clara County's latest liberal policy on the map. Instead of the "Arizonification of America," said community activist Raj Jayadev, referring to the recent wave of tough immigration-enforcement statutes that began with Arizona, "now, we are hoping for the 'SantaClarafication' of the country."