



**SCCLRLA Official Statement Opposing
Proposed Alteration to Santa Clara County's Civil Detainer Policy**

April 26, 2019

The Santa Clara County La Raza Lawyers Association would like to express our deepest condolences to the family and loved ones of Bambi Larson, who was tragically murdered in San Jose on February 28, 2019. These types of crimes should never happen, and we certainly understand that the community wants justice, and to avoid future tragedies. However, we believe that the proposed changes to the County Civil Detainer Policy, and especially the proposed notifications to, and cooperation with, ICE will not accomplish the desired change. In fact, we believe the proposed changes will have a severe negative impact on the safety of our entire community and will send a divisive message by unfairly targeting our immigrant community. Therefore, the SCCLRLA opposes any changes to the Santa Clara County Civil Detainer Policy.

On April 9, 2019, at the Santa Clara County Board of Supervisors hearing, Supervisor Susan Ellenberg gave an official statement on this subject. After a careful review and discussion, SCCLRLA unanimously voted to endorse and adopt Supervisor Ellenberg's statement in its entirety. We believe that she eloquently and correctly analyzed each of the issues raised by this proposed change, and supported her analysis with competent and persuasive research and statistics. We urge the remaining members of the Santa Clara County Board of Supervisors to adopt her stated position as well.

For convenience, Supervisor Ellenberg's April 9, 2019 Statement is included here in its entirety and reads as follows:

Few issues will come before us that will have a greater impact on our county's leadership role, our responsibility as public servants, and the welfare and safety of our community as the one we must address today. In fact, one of our foremost responsibilities as Supervisors is setting the policy that shapes public safety.

And we should always do everything we can to keep every person safe—regardless of their race, religion, ethnicity, gender identity, sexual orientation, age, developmental or cognitive abilities and yes, immigration status.

And frankly, our current policies work.

We have a lower violent crime rate than any urban county other than Orange and Riverside. We have the fourth lowest murder rate of any urban county behind Orange, Santa Barbara and San Mateo and it is worth noting that Orange, Santa Barbara and San Mateo also have sanctuary laws.

So, first, I want to thank our law enforcement agencies, from the police departments to the district attorneys and public defenders, as well as the policy makers who came before me for keeping Santa Clara County residents safe and for doing so in the context of equity and for not falling into the national rhetoric that immigrants, with or without documentation, are a great danger to public safety.

There are currently more than 10 million people living in the U.S. without proper documentation. More than 130,000 of those people live in Santa Clara County, representing more than 5 percent of our overall population of 1.9 million residents. The vast majority of them are employed, paying taxes, educating their children and engaging in constructive, beneficial ways in our community. They are an asset to the county, to their employers and to their families.

Maintenance of an immigration system is a responsibility of the federal government, not of local jurisdictions or law enforcement agencies. People who commit crimes in the county should be brought to justice in our local system. Their punishment should turn on the crime they committed, as opposed to their immigration status.

The question at hand today is whether we should change in any way the current policy that has been in place since 2011. That policy is working. As required by federal and state law, our county consistently honors judicial warrants from ICE and cooperates in the transfer of custody of anyone leaving our jails under those circumstances. ICE knows when individuals will be released and has the authority and mechanism to take custody of any undocumented person in our local criminal justice system. ICE can obtain warrants when ... warranted ... and as required by our federal and state constitutions.

I believe that our county can and must make genuine improvements to public safety by focusing our energy on the effectiveness of our own internal systems, which, though well intentioned and run by competent staff at every level, leave room for improvement.

If we want to prevent horrific crimes of the type recently perpetrated by people who were released from our custody, we need to take a look at every aspect of our criminal justice system ... from arrest to booking to arraignment to pretrial release. Are we doing everything we can to ensure that those who are released into our community are not going to be a danger to others? If the answer is "no," then the next question must be: What further work needs to be done to keep our community safe?

But instead of working to improve the policies that aren't working, we are here today to review a policy that IS working.

We are here today because people are frightened and angry.

We are here today because many of our neighbors don't understand what the current law allows and what would or wouldn't have been different in the case of Ms. Larson's murder had our policy been different.

Let's talk about what would have happened if our policy had been as some request today: that we would notify ICE of the release date of someone who has been convicted of a serious or violent felony. Notification of ICE would NOT have been triggered upon the release of the suspect in the murder of Bambi Larson, as Mr. Arevalo-Carranza had NOT been previously convicted of a serious or violent felony. It is true that he was charged with crimes that may have fit those categories, but the legal standard is conviction, not charge, and it is not within our purview to change that standard here today.

Some community members and elected officials, as well as our law enforcement coalition, would like us to distinguish between documented and undocumented residents in a narrow set of circumstances: when an individual has been convicted of a serious or violent felony.

I know many of our local law enforcement officers personally and over years of engagement have developed a trust in their values, their deep knowledge of this community and their commitment to our sanctuary policies. If they believe that a policy change is necessary, that carries significant – though not determinative—weight with me.

My trust in law enforcement undoubtedly comes from my place of privilege in our community.

That trust led to my initial thought that if people were not violent criminals, they had nothing to fear if we changed the policy to include notification to ICE for a very narrow range of crimes. I thought there would hardly be any impact locally because in reality, very few people who are convicted of crimes of this level serve their sentences in our jail, so notification upon release would in actuality affect a very small handful of people. Meanwhile, some community members would gain a sense of safety because we had “done something.”

I was ready to support a narrow change in our policy. I believed that the impact would be small while the sense of comfort would be dramatic.

I am not in that place any more. Today, as a result of my work, research, conversations and quiet listening, not to mention our current political climate, I have come to a different conclusion. I still believe that public safety may be negligibly impacted but the impact on tens of thousands of vulnerable, law

abiding residents and on vulnerable children in our County would be substantial, traumatic and lasting.

In fact, the Health and Hospital Committee is going to hear a report next week called *The Effects of Harmful Immigration Policy: How to Respond to Trauma and Fear*.

The report includes information on the psychological and neurological impacts of trauma, particularly on children as they develop. A recent panel addressed the imperative to support immigrant communities. In Santa Clara County 655,000 immigrants comprise 37 percent of the county population. Data from the Center for the Study of Immigrant Integration shows 1 in 10 children living in Santa Clara County is an immigrant, that 60 percent of children in the county have at least one immigrant parent and that over a third of undocumented residents in Santa Clara County reside with their U.S. citizen children. Research on the impact of trauma, and specifically fear of deportation and the impacts of family separation, shows that “the daily fear of arrest and deportation in mixed status families increases the risk of developing mental health problems like depression, anxiety, social isolation and poor academic performance among youth.” Impacts are felt both by documented and undocumented individuals with many living together in mixed status families and impacted by fear of separation.

Frankly, it is not in the county’s interest to disregard these impacts, as we know that untreated mental health issues lead to greater need for support, weaker economic stability and, in the worst cases, the very criminal behavior we are attempting to address today.

Our county and our law enforcement community have worked hard to build trust with our most vulnerable residents. Our One County, One Future campaign seeks to assure immigrant communities that Santa Clara County does not assist or cooperate with federal immigration enforcement actions. To date the county has committed \$5.5 million to fund education campaigns and direct services for immigrant status households.

This hard-earned trust may be broken by enacting a policy that will not measurably improve public safety. And we will be distracted from the questions that need to be addressed.

Regarding my colleague’s referral, I respectfully disagree with the premise.

I don’t believe we need to go back and study this issue. The parties referenced in Supervisor Cortese’s referral have already weighed in. I also don’t believe we should devote the enormous staff time that would be required to review the 800 plus crimes listed in his referral. There has never been a discussion to my knowledge of even considering the inclusion of felonies, other than the narrower

list of “serious and violent felonies,” let alone misdemeanors that are included on that list. I also worry that if we would approve even a narrow list of crimes permitting notice to ICE, we run the risk of getting it wrong on both ends and facing significant liability for unintentional errors, along with unnecessarily alarming thousands of law abiding but vulnerable residents, including many families and children.

When I ran for this seat, I promised to be a strong and consistent advocate for our community’s most vulnerable members, particularly children and families. I promised to be inclusive in my approach and to strive for equity. I can’t maintain that promise and support a policy change. I will vote no on any policy change today. ~Supervisor Susan Ellenberg

Sincerely,

Aaron Flemate, 2019 President on behalf of
Santa Clara County La Raza Lawyers Association

Micael Estremera, 2019 Vice President on behalf of
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