

THE NEW YORK TIMES

November 12, 2006

Immigrant Protection Rules Draw Fire

By JESSE McKINLEY

SAN FRANCISCO, Nov. 9 — Dr. Stephen B. Turner built a profitable business here by providing low-cost “immigrant medical exams,” including immunizations and blood tests, to hundreds of newcomers to America. Many of his clients did not speak English, but they paid in cash, spending a total of nearly \$250,000 at Dr. Turner’s practice from 2003 to 2005.

It was only later, after a tip from a suspicious client, that the San Francisco police and the district attorney’s office learned the truth: Dr. Turner had been throwing out his clients’ blood samples and injecting them with “inoculations” of saline.

Kamala D. Harris, the San Francisco district attorney, said the case, which led to a seven-year prison term for Dr. Turner, was one of many her office had been able to pursue under San Francisco’s so-called sanctuary policy, which forbids police and city officials from asking people they encounter in the course of an investigation about their immigration status. It is a protection Ms. Harris says has made immigrants — legal and illegal — more willing to come to forward about crimes.

With immigration continuing to flare and frustrate as a national political issue, sanctuary cities like San Francisco may soon be the next battlefield. Critics argue that sanctuary policies discourage the police from enforcing laws, though about 50 cities and counties have enacted variations on sanctuary, according to the National Immigration Law Center. They include Detroit, Los Angeles, New York and Washington. A handful of states have similar policies, including Alaska, Maine and Oregon.

Conservative legal groups and politicians have begun to challenge such policies. Yet on the other side, cities like Chicago have announced they will avoid involving their police in issues that smack of federal immigration enforcement. And while a federal proposal to punish sanctuary cities recently failed to become law, some states have passed laws discouraging sanctuary policies.

“To say to a law enforcement official, if you encounter a foreign national who is in this country illegally and you believe that information would be of use and benefit to federal authorities, that you can’t call them, that’s just wrong,” said Representative John Campbell, Republican of California, who authored a provision in the federal Homeland Security bill that would have denied federal antiterrorism money to cities with sanctuary policies. The provision passed the House, but was not part of the bill eventually signed by President Bush.

But even with Democrats in control of Congress, immigration hard-liners say the issue is here to stay.

“It’s mind-blowing for us to see taxpayer dollars spent to subsidize criminal activity — that’s the end result,” said Christopher J. Farrell, director of research for Judicial Watch, a conservative legal group that is suing the Los Angeles Police Department over its sanctuary rule.

Some states have also taken up the issue. In Colorado, a law signed by the governor in May prevents localities from passing ordinances that stop officials or police from communicating or cooperating with federal officials on immigration.

Other states have taken up larger immigration issues involving local cooperation with the federal authorities. A Georgia law enacted in April authorizes the state to enter into an agreement with federal officials to train and certify state law enforcement officials to enforce immigration. The Georgia law also requires the police to make a “reasonable effort” to determine the legal status of those they arrest for felonies or drunken driving.

Both the Colorado and Georgia laws include some protections against and stiffer penalties for exploitation of illegal immigrants.

In September, a sanctuary debate erupted in Houston after an illegal immigrant was accused of killing a police officer. Shelley Sekula-Gibbs, a Republican city councilwoman who ran for Congress as an unsuccessful write-in candidate in place of former Representative Tom DeLay, called on the mayor to declare the city off-limits to illegal immigrants.

“Terrorists, drug runners and cartel members could be among us, and police officers are not allowed to check their identities,” Ms. Sekula-Gibbs wrote in an e-mail message to supporters. “Why? Because some politicians fear that asking people who have no ID about their legal status might intimidate all illegals into not reporting crimes. This policy of appeasement must be stopped.”

Craig E. Ferrell Jr., general counsel for the Houston Police Department, said the city did not have a formal sanctuary policy. But he said a tangle of laws — police codes and legal decisions, including those involving racial profiling and the Fourth Amendment guarantee against unlawful search and seizure — required caution by police officers.

“We’re not just trying to be obstructionist or not trying to help,” Mr. Ferrell said. “What we’re against is the federal government mandating that local enforcement be initiated without addressing these issues.”

Sanctuary supporters have pushed back. In San Francisco, Supervisor Gerardo C. Sandoval — who authored a resolution affirming the city’s policy, which dates to 1989 — said the federal government was simply trying to pass the buck for failing to secure federal borders.

“If they want to enforce the law,” Mr. Sandoval said, “they should put troops on the ground to do that.”

Lt. Paul Vernon, a spokesman for the Los Angeles Police Department, which has operated under sanctuary guidelines since 1979, said, “We didn’t want people to fear cooperating with police.” Lieutenant Vernon added, “And the local police department job is not to enforce the federal immigration law.”

An organization of police chiefs, the Major Cities Chiefs Association, said that requiring the local police to enforce immigration policy did not “take into full account the realities of local law enforcement dealing with this issue on the ground.” The association said its concerns included a lack of authority, training, and resources, as well as risks of liability.

Advocates for illegal immigrants, meanwhile, said they feared that getting rid of sanctuary rules would encourage immigrant communities not to report crime, including human and drug trafficking, prostitution, domestic violence, and even terrorism.

“Once the police are seen as agents of the immigration service, it discourages and deters immigrant communities from going to the police,” said Lucas Guttentag, the director of the Immigrants’ Rights Project of the American Civil Liberties Union. “There’s a whole mixture of people in these communities — some recent, some illegal — and its going to cause the entire community to fear going to the police if they feel going to the local cop is essentially going to the immigration service.”

But opponents say localities should be forced to participate in solving some of the problems that accompany illegal immigration.

“You can’t have it both ways,” said Ira Mehlman, a spokesman for the Federation for American Immigration Reform, which lobbies for stronger immigration enforcement. “If you want to harbor people who are in the country illegally, you can’t expect to have federal funds for issues that arise from having illegal people in your community.”

Sanctuary policies are often less sweeping than opponents make them out to be. In San Francisco, for example, where resources cannot be used in immigration investigations, the police can inquire about immigration status in felony or drug cases.

Joan Friedland, an immigration lawyer for the National Immigration Law Center, said the concept of sanctuary cities was often misunderstood and that it gave the impression that such cities were lawless havens for illegal immigrants.

“It’s not like people, if they are charged with a crime, they just escape immigration,” Ms. Friedland said. “Even the cities that have ordinances limiting inquiries about immigration status cooperate and are in touch with the Department of Homeland Security when a serious crime is involved.”