

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

MIGUEL COCA and	)	
ALEJANDRO RANGEL-LOPEZ,	)	
	)	
Plaintiffs,	)	Case No. 6:22-cv-01274-EFM-RES
	)	
vs.	)	
	)	
CITY OF DODGE CITY,	)	
	)	
Defendant.	)	
_____	)	

**DEFENDANT’S BENCH BRIEF REGARDING
PLAINTIFFS’ ANTICIPATED EXHIBITS 41, 143, AND 144**

Defendant anticipates that Plaintiffs will attempt to offer as evidence a collection of documents marked as Exhibit 41 pertaining to a report made by the Dodge City Police Chief to the Attorney General related to a June 29, 2023 public meeting. In addition, Defendant anticipates that Plaintiffs will offer Exhibits 143 and 144, which are supplemental expert reports from January of 2024, opining on Exhibit 41.

If offered, Defendant submits that Exhibit 41 should be excluded under Fed. R. Evid. 401 and 403 as set forth below. In addition, Defendants submit that the exhibit is hearsay and is untimely.

If offered, Defendant submits that Exhibits 143 and 144 should be excluded because they rely on Exhibit 41 and because they do not meet the standards for expert testimony under Fed. R. Evid. 702 and 703. No *Daubert* motion could have been filed on this matter by the *Daubert* deadline because these supplemental reports were not provided to Defendant until January 12, 2024.

Exhibit 41

After the close of discovery, news reports identified an email from Dodge City Police Chief Drew Francis to Kansas Attorney General Kris Kobach pertaining to “a public informational event on June 29th, 2023, one of many happening in reference to HB2350.” Exhibit 41. The Chief’s email states that the “report is simply documenting the content of the public meeting and is therefore unclassified and open to the public.” The Chief advises General Kobach, “My interest is in protecting the department’s community relations and trust.” A report from Officer Soto is attached to the email.

HB2350 is an anti-human trafficking law passed overwhelmingly by the Kansas Legislature. Chief Francis’s email states his view that any description of the law as targeting the Latino community is “misinformation” that exploits “the very community these advocacy groups claim to advocate for the protection of.” Exhibit 41.

Neither Chief Francis nor the Kansas Attorney General are on any party’s witness list, nor have they been deposed. Nothing about Exhibit 41 pertains to elections or the opportunity to participate in the political process. Nothing in the exhibit suggests that the Dodge City Police Department has engaged or will engage in any inappropriate treatment of Latinos. To the contrary, Chief Francis advises the Attorney General that the group is “waiting for some direction to KS LE [Kansas Law Enforcement] from the KS AG’s Office...”

Exhibit 41 consists of a series of hearsay documents with no one to lay the foundation for them. While Defendant agrees that this information was new to the Plaintiffs after the close of discovery, offering these irrelevant documents at the last minute nonetheless inserts an untimely exhibit on an irrelevant issue.

Exhibits 143 and 144

Plaintiffs have identified Exhibit 143, an addendum to Dr. Bejarano’s expert witness report, and Exhibit 144, an addendum to Dr. Martinez’s expert report.

Dr. Bejarano opines that Exhibit 41 demonstrates a “lack of responsiveness on the part of local officials to the particularized needs of Latinos.” She claims that “Chief Francis shared the surveillance with Attorney General Kobach, whom I previously highlighted as a highly contentious figure due to his open hostility toward the Latino and immigrant communities in Kansas.” There are no citations in Dr. Bejarano’s report other than to Exhibit 41.

Dr. Martinez likewise opines that Chief Francis’s concerns about “misinformation” “reflect institutional racial dynamics wherein the Hispanic community is targeted as a potential problem rather than one deserving of attention.” There are similarly no citations in Dr. Martinez’s report other than to Exhibit 41.

I. Exhibit 41 should be excluded under Fed. R. Evid. Rule 401 or 403, as hearsay and as untimely.

Exhibit 41 has no “tendency to make a fact more or less probable than it would be without the evidence” Here, it is unclear what purported “fact” is “of consequence in determining the action.” Accordingly, Exhibit 41 fails to meet the threshold test for relevant evidence under Rule 401.

However, even if the Court deems Exhibit 41 to be relevant, it should be excluded under Rule 403. This exhibit confuses the issues and wastes the Court’s time engaging in speculation about legislative intent for unrelated legislation, the motivations of the non-witness police chief who is not a decision-maker on any issue before the Court, and whether the Attorney General is fairly criticized.

Plaintiffs offer no foundation for this hearsay exhibit and have listed no one on their witness list who can testify from personal knowledge regarding it. Whether a bill passed by the Kansas legislature is reasonable is simply not an issue before this Court. Likewise, whether the police chief chose the best method of gathering and reporting the information to the General is unrelated to any issue before this Court.

II. Exhibits 143 and 144 should be excluded under Fed. R. Evid. 702 and 703.

Plaintiffs have chosen to supplement two expert reports on an issue that has nothing to do with elections, yet they have not supplemented their expert report on an issue that actually does. There was an intervening City Commission election in November of 2023, following the issuance of Dr. Barreto's expert report on racially polarized voting in elections in Dodge City. Dr. Barreto did not supplement his report. The decision to supplement on an irrelevant issue while failing to supplement on a relevant issue is telling.

Rule 702(a) permits expert testimony only when "the expert's scientific, technical or other specialized knowledge with help the trier of fact to understand the evidence or to determine a fact issue." Dr. Bejarano and Dr. Martinez bring no specialized knowledge to assist the Court to understand the evidence or to determine a relevant fact issue. While they insert their own advocative interpretations of the purposes of the legislation, the motivation of the Attorney General, and how they would have proceeded differently from the manner chosen by the Chief, they have no scientific, technical, or other specialized knowledge to opine on these issues.

Rule 702(b) requires that the testimony be based on sufficient facts and data. But neither Chief Francis nor the Attorney General is a witness. The conclusions reached are entirely speculative.

Rule 702(c) requires that the “testimony is the product of reliable principles and methods.” However, no principles or methods are identified.

Rule 702(d) requires that “the expert’s opinion reflects a reliable application of the principles and methods to the facts of the case.” Given that no principles and methods were applied at all, there is no basis for the opinions.

Even when an expert relies on hearsay under Rule 703, “the underlying information is not admissible simply because the opinion or inference is admitted.” Fed. R. Evid. 703 advisory committee’s note to 2000 Amendment (“Rule 703 has been amended to emphasize that when an expert reasonably relies on inadmissible information to form an opinion or inference, the underlying information is not admissible simply because the opinion or inference is admitted.”). The plaintiffs, accordingly, cannot present hearsay evidence through the back door that they must otherwise present through the front. *See Stover v. Eagle Prods., Inc.*, No. 93-4047-SAC, 1996 WL 172972, at *11 (D. Kan. Mar. 19, 1996) (“An ‘expert’ opinion based upon the speculation of others retains the inherent uncertainty which would preclude the introduction of the speculative opinions of others in the first instance. The plaintiffs cannot bring through the back door what they cannot bring in through the front.”).

Both Drs. Martinez and Bejarano impermissibly weigh Chief Francis’s credibility. Chief Francis’s intent in the email is clear—namely: (1) “[m]y interest is in protecting the department’s community relations and trust”; and (2) to gather information because he understood there were “advocacy groups spreading a lot of misinformation in regards to HB2350.” Neither Dr. Martinez nor Dr. Bejarano purport to be an expert on a witness’s credibility, nor does their professional background support any such expertise.

Drs. Bejarano and Martinez draw impermissible conclusions from Chief Francis’s email in any event. Dr. Bejarano opines that the email is “evidence of a lack of responsiveness on the part of local officials to the particularized needs of Latinos in Dodge City.” Exhibit 143. Dr. Martinez opines that the email reflected “institutional racial dynamics wherein the Hispanic community is targeted as a potential problem rather than one deserving of protection.” Exhibit 144. Again, however, Chief Francis wrote the opposite—that he was countering a narrative that “serves to advance the insulation and protection of the human traffickers and smugglers exploiting the *very community*” both he and the law were responsive to and intended to protect. (emphasis added) *See League of Women Voters of Fla., Inc. v. Fla. Sec’y of State*, 66 F.4th 905, 927-32 (11th Cir. 2023) (reversing district court’s rejection of legislators’ race-neutral justifications for a Florida law that regulated ballot drop boxes, voter solicitation, and the delivery of voter-registration forms).

Finally, Dr. Bejarano’s and Dr. Martinez’s addenda are irrelevant to the Plaintiffs’ Fourteenth Amendment claim, which requires the Plaintiffs to show that a Dodge City *decisionmaker* has acted with discriminatory intent specifically in maintaining at-large elections. *See* Am. Compl., ECF No. 30 at 25 ¶ 119 (alleging only that “[t]he at-large method of election used by Dodge City for the Dodge City Commission discriminates against Plaintiffs on the basis of race and national origin”); *see also Pers. Adm’r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979) (requiring proof that a relevant “decisionmaker . . . selected or reaffirmed a particular course of action at least in part ‘because of,’ not merely ‘in spite of,’ its adverse effects upon an identifiable group”). Here, however, the Police Chief has no relevant decision-making authority when it comes to Dodge City’s electoral processes. *But see* K.S.A. 25-2303(a) (making county elections officers “responsible for administering” elections).

For the reasons set forth above, Defendant will assert an objection if Exhibits 41, 143, and 144 are offered. Defendant will seek a ruling from the Court if the Plaintiffs offer these exhibits.

Respectfully submitted,

FOULSTON SIEFKIN LLP

By: /s/ Anthony F. Rupp

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that on the 25th of February 2024, the foregoing was electronically filed with the Clerk of the Court by using the Court's e-Filing system which will send notification of electronic filing to counsel for all parties of record.

/s/ Anthony F. Rupp

Bingesser, Matt

From: Drew Francis <drewf@dodgecity.org>
Sent: Friday, June 30, 2023 1:58 PM
To: Kobach, Kris
Cc: kkobach@gmail.com
Subject: Community informational events re: HB2350
Attachments: officers report final.doc

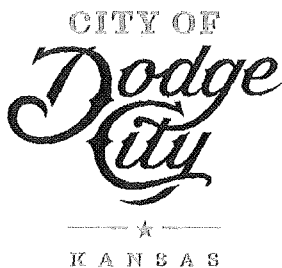
CAUTION: This email originated from outside of the Office of The Attorney General of Kansas organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

AG. Kobach,

Please review the attached Officer's Report from my department regarding an organized public informational event on June 29th, 2023, one of many happening across KS, in reference to HB2350. The report is simply documenting the content of the public meeting and is therefore unclassified and open to the public. I assigned a plainclothes detective of my department to attend this for observation and to report on the content of the information being pushed out to our community members. My interest is in protecting the department's community relations and trust. I have heard there are many advocacy groups spreading a lot of misinformation in regards to HB2350, specifically advising that this will be used by KS LE agencies to harass and discriminate against the Hispanic community, and therefore it is not safe for the Hispanic community to talk to police. After reviewing the report myself, I believe this is a direct assault on the police and public unity, and partnership. One that only serves to advance the insulation and protection of the human traffickers and smugglers exploiting the very community these advocacy groups claim to advocate for the protection of.

They also state that they are waiting for some direction to KS LE from the KS AG's Office, and until that happens, too much is "unclear", so the best advice is to avoid police encounters and do not talk to them without an attorney. Please review the report and let me know if you have any questions or want anything further.

Thank you,
Drew



DREW FRANCIS
 CHIEF OF POLICE
drewf@dodgecity.org

POLICE DEPARTMENT

110 W. Spruce St.
 Dodge City Kansas 67801
620.225.8126

***Hearing and/or speech-impaired persons using a TDD/TTY may contact City Staff through the Kansas Relay Center at 711 or 1-800-766-3777.

Officer's Report

Date 06/30/2023

Officer: J. Soto D336

Attention: Chief D. Francis

Subject: Meeting regarding Kansas HB2350

On June 28, 2023 at 1800 hours I attended a meeting at the Dodge City Public Library regarding Kansas House Bill 2350. The meeting was organized by the Kansas Hispanic & Latino American Affairs Commission (KHLAAC), which is part of the Kansas Governor's Office, the Latinx Education Collaborative, Advocates for Immigrant Rights and Reconciliation (AIRR), and the United Food & Commercial Workers Union Local 2 (UFCW2). Before arriving, I placed my bodycam in a cargo pocket of my pants and was able to record audio of the meeting. The video is saved under secondary tag 001 and categorized as pending review.

While present I saw a few Hispanic families including adults and children. I also saw Assistant City Manager Melissa McCoy, who operated the projector and took notes, and the Director of Development Services and Inspections Kevin Israel, who was accompanied by employees of Conant construction. I also saw Dodge City Police Department auxiliary member and Vice Chair of Ford County Democrats Jose Garcia present in the audience. I estimated approximately 15 people in attendance.

The first part of the presentation was led by the KHLAAC Chair Commissioner Monica Vargas Huertas, Esq. Huertas also serves as the Political and Community

Outreach Director for UFCW. Serving as translator was Carlos Wriedt, the CFO for the Community Service Council in Tulsa, Oklahoma.

Huertas' presentation was written and spoken in Spanish and the title of the slideshow was, "Is HB2350 an anti-immigrant law?" Huertas said she would present the facts and allow the audience to draw their own conclusions. Huertas began her presentation explaining the separate elements of HB2350. Huertas criticized what she described as "the vague language" regarding the section of the statute which says, "Benefits financially or receives anything of value". Huertas said there is no clear definition of what "anything of value" means.

Huertas said the third element of the statute which reads, "Knows, or should have known, that the individual being smuggled is likely to be exploited for the financial gain of another". Huertas pointed out the statute does not obligate the prosecution to prove a causal link between the person transporting, harboring, or concealing an illegal alien and the actual exploitation of an illegal alien. Huertas explained the bill is designed to penalize the person transporting or harboring an illegal alien and not the actual exploiter.

Huertas explained the statute categorizes human smuggling as a severity level 3 person felony. Huertas explained the crime of human smuggling carries a possible prison sentence and fines. Huertas said citizens could take some relief in the fact the bill does not carry deportation as a possible sentence. Huertas pointed out the statute would also penalize documented citizens who transport or harbor illegal aliens, not only illegal aliens who are transporting or harboring other illegal aliens.

Huertas said the new bill was superfluous because K.S.A 21-5426 has been in effect since 2012. Huertas said K.S.A. 21-5426 already criminalizes exploiting illegal aliens for financial gain referencing the first section of the statute.

Huertas circled back to the “vague language” of the statute and said the most important thing to consider is the fact it was not necessary to prove a causal link exists between the transporter of an illegal alien receiving “anything of value” and the illegal alien being exploited by another party. Huertas said HB2350 equally penalizes transporting or harboring an illegal alien and exploiting them.

Huertas went on to ask how anyone could possibly know another person’s legal status or if they are being exploited. Huertas said HB2350 opens the door for “higher prosecution” but did not explain how. Huertas asked the audience “Why make this law when one already exists?”

Huertas said K.S.A. 21-5426 is “more technical” and “is more clear about what must be brought to court for conviction”. Huertas pointed out K.S.A 21-5426 uses the language “any person” while HB2350 specifically references illegal aliens.

Huertas then asked the Audience “Who does this law protect?”. Huertas explained the history of HB2350. Huertas said when HB2350 was originally drafted it lacked the two elements regarding receiving anything of value and knowing the illegal alien would be exploited. Huertas said the original draft of HB2350 made transporting an illegal alien a felony on its own. Huertas said only after intense debate the second and third elements were added.

Huertas said in later drafts of HB2350 the language of the first section of the statute was amended. Huertas said the section of HB2350 which now reads, “Knows, or

should have known” originally read “with reckless disregard in exchange for anything of value”. Huertas criticized how anyone could have reckless disregard for another person’s legal status.

Huertas said HB2350 is intended to punish people who transport or harbor illegal aliens and not people who exploit illegal aliens. Huertas said only after “the most intense debates” the three elements now included in the statute were finally introduced.

Huertas reminded the audience of their presumption of innocence and explained the burden of proving all three elements of the crime lie on the prosecution.

The next section of Huertas’ presentation was what she defined as “practical cases” of the application of HB2350. Huertas gave different scenarios and spoke about whether the scenario could result in criminal charges arising from HB2350. The scenarios are as follows:

- If I take my undocumented unemployed spouse on a family trip could I be charged?

Huertas said “No” because the second two elements could not be proven.

- If I give my undocumented friend a ride somewhere and they give me gas money could I be charged?

Huertas said “No” because that scenario would not fulfill the element regarding exploitation.

- If I live in a home of mixed legal status and my undocumented family member contributes financially with wages paid from fair employment which pays a legal wage could I be charged?

Huertas said “No”.

- If I transport someone to a job where they are treated unfairly (paid less than minimum wage, do not provide safety equipment etc.) could I be charged?

Huertas said it is “unclear” and it would most likely depend on the prosecutor to decide.

- If I live in a home of mixed legal status and my undocumented family member contributes financially with wages earned at a job which treats them unfairly could I be charged?

Huertas said it is “unclear”. Huertas said in this scenario the undocumented family member is exploited at their job. Huertas said it is common knowledge that immigrants are often paid less than their citizen counterparts.

- If I do social work or community service and I house a minor while they pay off a debt through exploitive work could I be charged?

Huertas said this scenario touches on the most argued points and the answer is “unclear”. Huertas said the accuser would have to prove the person harboring the minor received “anything of value”. Huertas highlighted that “anything of value” does not need to be related to the actual exploitation of the minor.

Huertas transitioned to the next section of her presentation by asking the audience, “What can we do to protect ourselves?”

Huertas posed the question What can I do during contact with legal authorities while I am transporting someone who does not have legal status?”

Huertas reminded the audience they have the right to remain silent and that anything they say could be used against them. Huertas said anyone can refuse to answer questions regarding their or someone else’ legal status.

Huertas said anyone has the right to record police interactions and police cannot prevent them from recording. Huertas said not all police record their interactions with the public due to policy or budget constraints.

Huertas explained the difference between a temporary detention and an arrest. Huertas said police have the right to detain someone while they contact ICE or verify someone's legal status.

Huertas highlighted the fact that HB2350 applies to someone transporting an illegal alien, not to the illegal alien themselves. Huertas did not explicitly say, but implied that an illegal alien could not be detained in relation to HB2350, but someone transporting them could be detained.

Huertas urged the audience to be careful about requests to accompany police to a police department for further questioning. Huertas said going voluntarily to a police department for questioning could be misconstrued as consent.

Huertas said the best course of action during a police interaction is to ask if you are free to go. Huertas said if the police say you are not free to go to ask if you are detained or arrested and why.

Huertas said if someone is arrested the officer needs to prove probable cause for the arrest and read and abide by the arrestee's Miranda rights. Huertas said the most important thing to consider during police interactions is a person's right to remain silent. Huertas said never speak to police without an attorney present.

Huertas said never to run from police. Huertas said running from police would give them probable cause for an arrest.

Huertas gave the example of a traffic stop where the driver has no license.

Huertas said driving without a valid license is a misdemeanor offense and it is better to receive a ticket and go to court with a lawyer than to speak to police and risk being charged with a felony.

Huertas said the most important advice she could give was to never sign any document without an attorney present. Huertas said police documents are highly technical and it is best to have a lawyer present who can understand and explain the documents before someone signs them.

Huertas said in order to protect the community it is important to never ask clients, patients, or customers questions regarding their legal status. Huertas said businesses have no obligation to keep records regarding their clients' legal status and urged against keeping such documentation.

Huertas said her organization provides "know your rights" cards which could be handed to a police officer instead of talking to them. Huertas said it is also important to have a plan in case the main source of income in a household is taken into detention. Huertas showed an "ICE family preparedness plan" on screen. Huertas said it is also important for immigrants to develop relationships with immigration lawyers and defense attorneys in case they are needed as a result of HB2350.

Huertas asked "What can I do if I work closely with the immigrant population?" Huertas advised businesses to designate a single person to handle police interactions. Huertas said to train all other employees not to answer questions regarding immigration. Huertas said the person in charge of speaking to police should make it clear they do not consent to police entering or searching the business. Huertas said if

the police say they will return with a warrant to contact a lawyer and try to have them present before police return.

Huertas said if a search is conducted it is important to document police conduct with photos and detailed notes which can be used as evidence in court. Huertas said before a search is conducted it is important to review the warrant carefully to be sure officers are adhering to the scope of the search. Huertas said a warrant which authorizes an inspection of a business is not the same as a warrant authorizing the search of a business. Huertas said if a search is being conducted the only information anyone needs to provide to police is their real name.

Huertas reminded the audience HB2350 is a state law and violators of the law could not be held in a federal detention facility or be deported. Huertas said the law targets those transporting illegal immigrants and poses no risk for illegal immigrants.

Huertas said the supreme court recently published an opinion that state courts cannot challenge the discretion of federal agencies or courts. Huertas said ICE has stated their priorities are to deport illegal aliens that pose a threat to national security, public safety, or border security. Huertas said during 2021 the priority was to deport any illegal alien who arrived in the U.S. during the last two years. Huertas said this priority later changed to any illegal alien within 150 miles of the southern border. Huertas said the current administration uses their discretion to target illegal aliens who pose threats to public safety. Huertas said ICE can exercise their discretion as they see fit and HB2350 does not give Kansas the ability to challenge that discretion.

Huertas ended her presentation by urging listeners to protect themselves by always recording police interactions, never answering questions and reminded the

audience to never run from police because that would only give probable cause for an arrest.

Huertas then fielded two questions from the audience. One question was unrelated to HB2350 and Huertas explained how a notary could not be charged under this bill because a notary would not transport or harbor an illegal alien.

The second question was regarding the Miranda warning and how a Spanish speaking person could be sure officers were accurately reading them their rights after an arrest. Huertas explained it is not always possible for agencies to have a bilingual officer available. Huertas said a non-Spanish-speaking officer has no obligation to read a person their Miranda warning in Spanish. Huertas said it is important for each person to know their rights before they are contacted by police.

The second half of the meeting was led by Carla Rivas-D'Amico who is the Executive Director of the KHLAAC. Edgar J. Palacios, CEO of the Latinx Education Collaborative in Kansas City and another speaker whose name is unknown to me also contributed to the second half of the presentation.

D'Amico's presentation was regarding government functions and she urged everyone present to become involved in their own government. D'Amico's presentation would best be categorized as lobbying for the current Governor of Kansas.

D'Amico's presentation had little to do with HB2350 other than her speaking about how the current governor was not in favor of it and vetoed it. At least one family present in person left during this portion of the presentation.

The only portion of D'Amico's presentation which caused me any concern was regarding how illegal aliens could influence elections. D'Amico explained illegal aliens could lobby and demonstrate in favor or against politicians. D'Amico then said illegal aliens could work in polling places or as election judges and in this way influence elections. D'Amico stated these positions are filled by volunteers and it was not necessary to be a citizen to serve in these functions. Although not expressly stated, I felt this implied an illegal alien could become involved in election tampering.

After D'Amico spoke Huertas gave some closing remarks. Huertas urged anyone listening to document police interactions and to contact her office if they witnessed what they believed was a targeted or discriminatory arrest related to HB2350.

D'Amico took some questions from the audience through Zoom chat. One participant asked if the Governor's office was doing anything to influence the way the Kansas Highway Patrol would enforce HB2350. D'Amico said the office in charge of directing all law enforcement agencies in the state of Kansas is the Attorney General's Office. D'Amico said conversations are taking place "behind the scenes", but the Attorney General's office has yet to provide a clear statement on how HB2350 should be enforced. D'Amico said conversations are also taking place with other law enforcement agencies, but some law enforcement agencies are more approachable than others. Huertas told the audience if anyone listening had law enforcement contacts to help by facilitating conversations between them and her office.

Huertas told the audience another meeting regarding HB2350 would take place on July 13, 2023 at the UFCW2 building in Dodge City, Kansas.

At the end of the presentation some listeners stayed behind to provide their information to Melissa McCoy so they could receive more materials and information regarding HB2350. I was approached by Jose Garcia and I greeted him cordially. Due to past interactions with Garcia I was concerned he would alert the rest of the audience that I was a police officer which could have led to some controversy, so I left with the first group of audience members.

Respectfully,

Jose Soto #D336

Dodge City Police Department

06/30/2023

Bingesser, Matt

From: Laura Francis [REDACTED]
Sent: Friday, June 30, 2023 2:21 PM
To: Kris Kobach; Kobach, Kris
Subject: Human Smuggling Workshops
Attachments: image0.jpeg; image1.jpeg; image3.jpeg

CAUTION: This email originated from outside of the Office of The Attorney General of Kansas organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Kris,

Attached are a few poster invitations from the Kansas Hispanic & Latino American Affairs Commission, along with other organizations, promoting community informational meetings on HB2350/Human Smuggling law. I believe the DCPD LEO report was sent to you as well that covers the content of these meetings, put on by the governor's office and spreading misinformation and division. Thank you for tackling this and helping Kansas be more safe!

Laura Francis
Dodge City



City of Dodge City - Government

Jun 21 · 🌐

The Kansas Hispanic and Latino Affairs Commission (KHLAAC) and UFCW2 will provide an informative virtual session on House Bill 2350 (Crimes of Human Smuggling) on June 28th from 6:00 pm to 8:00 pm. To access this event, scan the QR code below or view the event in person at the Dodge City Public Library at 1001 N. 2nd Avenue, Dodge City.

La Comisión de Asuntos Hispanos y Latinos de Kansas (KHLAAC) y UFCW2 ofrecerán una sesión informativa virtual sobre el proyecto de ley 2350 de la Cámara de Representantes de Kansas (Crímenes de Contrabando de Personas) el 28 de Junio de 6:00 pm a 8:00 pm. Para acceder a este evento, escanee el código QR a continuación o vea el evento en persona en la Biblioteca Pública de Dodge City en 1001 N. 2nd Avenue, Dodge City.

See translation

Virtual Informative Session



June 28th
6:00 pm-8:00

Sesión informativa virtual



28 de Junio
6:00 pm-8:00

UPCOMING WORKSHOPS

ANGRY ABOUT THE NEW LAW (HB 2350) TARGETING THE LATINO COMMUNITY?

JOIN US FOR A FREE WORKSHOP ON WHAT YOU CAN DO ABOUT IT, HOW THE NEW LAW CAME TO BE, AND WHAT THE COMMUNITY NEEDS TO KNOW.

JUNE 1ST | WICHITA, KS | EVERGREEN COMMUNITY CENTER

JUNE 8TH | OLATHE, KS | EL CENTRO INC

JUNE 22ND | KANSAS CITY, KS | EL CENTRO INC

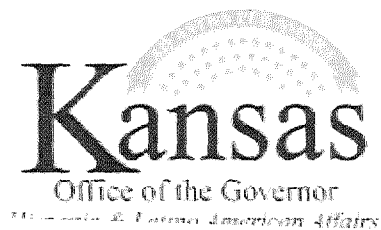
JUNE 27TH | LIBERAL, KS | CROSSPOINT LIBERAL

DODGE CITY | DATE TO BE ANNOUNCED

GARDEN CITY | DATE TO BE ANNOUNCED

TOPEKA | DATE TO BE ANNOUNCED

STAY TUNED FOR FURTHER DETAILS



KHLAAC PRESENTS

MI VOTO MI VIDA

ANGRY ABOUT THE NEW LAW TARGETING THE LATINO COMMUNITY?

JOIN US FOR A FREE WORKSHOP ON **WHAT YOU CAN DO ABOUT IT**,
HOW THE NEW LAW CAME TO BE, AND WHAT THE COMMUNITY
NEEDS TO KNOW.

THURSDAY, JUNE 22, 2023 | 6:00-8:00 PM

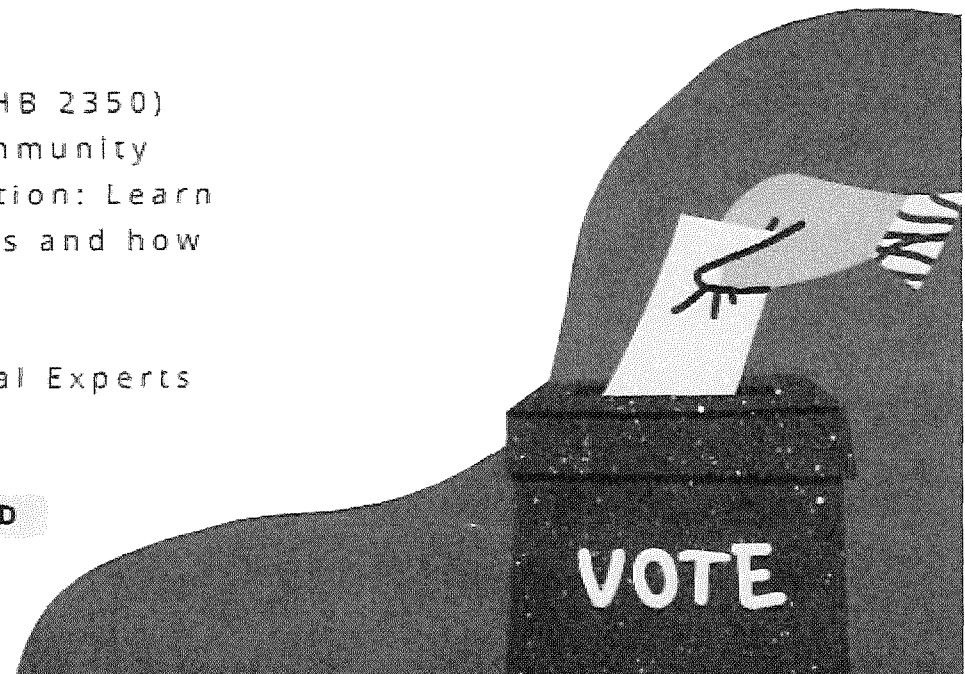
EL CENTRO INC.

650 MINNESOTA AVE #2, KANSAS CITY, KS 66101

WHAT TO EXPECT:

- Learn How the New Law (HB 2350) Will Affect the Latino Community
- Civic and electoral education: Learn how the government works and how to make a difference
- Advocacy Training
- Hear From a Panel of Local Experts and Organizations

FREE DINNER WILL BE PROVIDED



Addendum Submitted on Behalf of Plaintiffs
in Coca, et al. v. City of Dodge City, et al.

Christina Bejarano, Ph.D.
Texas Woman's University
January 12, 2024

PLAINTIFFS'
EXHIBIT

143

Per 28 U.S.C. § 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief:

I write to supplement my report based on a new piece of information received in December 2023 from Plaintiffs' counsel. The new evidence, surfaced as a result of a press report, includes an email and officer report shared by Dodge City Chief of Police Francis to Kansas Attorney General Kobach.¹ The information details an undercover police surveillance of a public meeting organized by Latino community advocates in Dodge City on June 29, 2023.² The documents indicate that local officials were aware the Latino community was concerned about the dire potential consequences of Kansas HB2350³, which could "be used by KS LE agencies to harass and discriminate against the Hispanic community."⁴ However, rather than sending a local official to facilitate communication with the concerned Latino community, local law enforcement secretly surveilled the public meeting despite having no evidence of potential unlawful activity. Of note is the emphasis on secrecy displayed in the officer's report by Detective Soto, in which he acknowledges that before arriving at the meeting, "I placed my bodycam in a cargo pocket of my pants and was able to record audio of the meeting."⁵ In addition, Detective Soto ends his report by noting due to being approached at the end of the meeting by Jose Garcia,⁶ Soto rushed out to avert alerting his presence to the rest of the audience

¹ Communication, provided in discovery, between the Dodge City Chief of Police, Drew Francis, and KS Attorney General Kris Kobach, "Email Subject: Community informational events re: HB2350." June 30, 2023.

² The June 2023 public meeting "was organized by the Kansas Hispanic & Latino American Affairs Commission (KHLAAC), which is part of the Kansas Governor's Office, the Latinx Education Collaborative, Advocates for Immigrant Rights and Reconciliation (AIRR), and the United Food & Commercial Workers Union Local 2 (UFCW2)."

³ Kansas law became effective July 1, 2023, which is considered an 'anti-immigrant' measure that creates the crimes of human smuggling. Kansas Legislature, *HB 2350*. https://www.kslegislature.org/li/b2023_24/measures/hb2350/

⁴ Communication, provided in discovery, between the Dodge City Chief of Police, Drew Francis, and KS Attorney General Kris Kobach, "Email Subject: Community informational events re: HB2350." June 30, 2023.

⁵ *Id.*

⁶ Dodge City Police Department auxiliary member and Vice Chair of Ford County Democrats.

and creating controversy.⁷ Of additional note is the necessity for the meeting, which advocacy groups organized to educate the community on HB2350 and outline ways they could protect themselves if they had any interactions with local law enforcement.

This additional information further supports the findings in my initial report as to Senate Factor Eight. The information shared by Chief Francis includes additional evidence of a lack of responsiveness on the part of local officials to the particularized needs of Latinos in Dodge City. In particular, the evidence is relevant to two previously mentioned areas of concern for Latinos, which include a lack of responsiveness over expressed fears and concerns of discriminatory treatment experiences, including racial profiling by the Dodge City Police Department, and of targeted immigration enforcement in Dodge City. Chief Francis acknowledged he was aware the Latino community was concerned with HB2350, however instead of sending a facilitator to the meeting he chose to conduct secret surveillance. Moreover, Chief Francis shared the surveillance with Attorney General Kobach, whom I previously highlighted as a highly contentious figure due to his open hostility towards Latino and immigrant communities in Kansas. The additional evidence also highlights the continued and growing expressed fears/concerns of the Latino community that they are facing discrimination and targeted interactions with law enforcement. Latinos' expressed concerns have gone largely unaddressed by local officials in Dodge City.

X 

Christina Bejarano, Ph.D

⁷ Communication, provided in discovery, Officer's Report, "Subject: Meeting regarding Kansas HB2350," June 30, 2023.

APPENDIX A

Bingesser, Matt

From: Drew Francis <drewf@dodgecity.org>
Sent: Friday, June 30, 2023 1:58 PM
To: Kobach, Kris
Cc: kkobach@gmail.com
Subject: Community informational events re: HB2350
Attachments: officers report final.doc

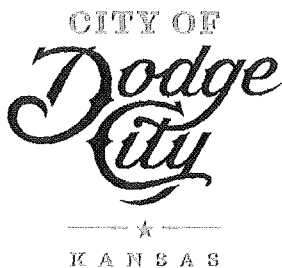
CAUTION: This email originated from outside of the Office of The Attorney General of Kansas organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

AG. Kobach,

Please review the attached Officer's Report from my department regarding an organized public informational event on June 29th, 2023, one of many happening across KS, in reference to HB2350. The report is simply documenting the content of the public meeting and is therefore unclassified and open to the public. I assigned a plainclothes detective of my department to attend this for observation and to report on the content of the information being pushed out to our community members. My interest is in protecting the department's community relations and trust. I have heard there are many advocacy groups spreading a lot of misinformation in regards to HB2350, specifically advising that this will be used by KS LE agencies to harass and discriminate against the Hispanic community, and therefore it is not safe for the Hispanic community to talk to police. After reviewing the report myself, I believe this is a direct assault on the police and public unity, and partnership. One that only serves to advance the insulation and protection of the human traffickers and smugglers exploiting the very community these advocacy groups claim to advocate for the protection of.

They also state that they are waiting for some direction to KS LE from the KS AG's Office, and until that happens, too much is "unclear", so the best advice is to avoid police encounters and do not talk to them without an attorney. Please review the report and let me know if you have any questions or want anything further.

Thank you,
 Drew



DREW FRANCIS
 CHIEF OF POLICE
drewf@dodgecity.org

POLICE DEPARTMENT

110 W. Spruce St.
 Dodge City Kansas 67801
620.225.8126

***Hearing and/or speech-impaired persons using a TDD/TTY may contact City Staff through the Kansas Relay Center at 711 or 1-800-766-3777.

Officer's Report

Date 06/30/2023

Officer: J. Soto D336

Attention: Chief D. Francis

Subject: Meeting regarding Kansas HB2350

On June 28, 2023 at 1800 hours I attended a meeting at the Dodge City Public Library regarding Kansas House Bill 2350. The meeting was organized by the Kansas Hispanic & Latino American Affairs Commission (KHLAAC), which is part of the Kansas Governor's Office, the Latinx Education Collaborative, Advocates for Immigrant Rights and Reconciliation (AIRR), and the United Food & Commercial Workers Union Local 2 (UFCW2). Before arriving, I placed my bodycam in a cargo pocket of my pants and was able to record audio of the meeting. The video is saved under secondary tag 001 and categorized as pending review.

While present I saw a few Hispanic families including adults and children. I also saw Assistant City Manager Melissa McCoy, who operated the projector and took notes, and the Director of Development Services and Inspections Kevin Israel, who was accompanied by employees of Conant construction. I also saw Dodge City Police Department auxiliary member and Vice Chair of Ford County Democrats Jose Garcia present in the audience. I estimated approximately 15 people in attendance.

The first part of the presentation was led by the KHLAAC Chair Commissioner Monica Vargas Huertas, Esq. Huertas also serves as the Political and Community

Outreach Director for UFCW. Serving as translator was Carlos Wriedt, the CFO for the Community Service Council in Tulsa, Oklahoma.

Huertas' presentation was written and spoken in Spanish and the title of the slideshow was, "Is HB2350 an anti-immigrant law?" Huertas said she would present the facts and allow the audience to draw their own conclusions. Huertas began her presentation explaining the separate elements of HB2350. Huertas criticized what she described as "the vague language" regarding the section of the statute which says, "Benefits financially or receives anything of value". Huertas said there is no clear definition of what "anything of value" means.

Huertas said the third element of the statute which reads, "Knows, or should have known, that the individual being smuggled is likely to be exploited for the financial gain of another". Huertas pointed out the statute does not obligate the prosecution to prove a causal link between the person transporting, harboring, or concealing an illegal alien and the actual exploitation of an illegal alien. Huertas explained the bill is designed to penalize the person transporting or harboring an illegal alien and not the actual exploiter.

Huertas explained the statute categorizes human smuggling as a severity level 3 person felony. Huertas explained the crime of human smuggling carries a possible prison sentence and fines. Huertas said citizens could take some relief in the fact the bill does not carry deportation as a possible sentence. Huertas pointed out the statute would also penalize documented citizens who transport or harbor illegal aliens, not only illegal aliens who are transporting or harboring other illegal aliens.

Huertas said the new bill was superfluous because K.S.A 21-5426 has been in effect since 2012. Huertas said K.S.A. 21-5426 already criminalizes exploiting illegal aliens for financial gain referencing the first section of the statute.

Huertas circled back to the “vague language” of the statute and said the most important thing to consider is the fact it was not necessary to prove a causal link exists between the transporter of an illegal alien receiving “anything of value” and the illegal alien being exploited by another party. Huertas said HB2350 equally penalizes transporting or harboring an illegal alien and exploiting them.

Huertas went on to ask how anyone could possibly know another person’s legal status or if they are being exploited. Huertas said HB2350 opens the door for “higher prosecution” but did not explain how. Huertas asked the audience “Why make this law when one already exists?”

Huertas said K.S.A. 21-5426 is “more technical” and “is more clear about what must be brought to court for conviction”. Huertas pointed out K.S.A 21-5426 uses the language “any person” while HB2350 specifically references illegal aliens.

Huertas then asked the Audience “Who does this law protect?”. Huertas explained the history of HB2350. Huertas said when HB2350 was originally drafted it lacked the two elements regarding receiving anything of value and knowing the illegal alien would be exploited. Huertas said the original draft of HB2350 made transporting an illegal alien a felony on its own. Huertas said only after intense debate the second and third elements were added.

Huertas said in later drafts of HB2350 the language of the first section of the statute was amended. Huertas said the section of HB2350 which now reads, “Knows, or

should have known” originally read “with reckless disregard in exchange for anything of value”. Huertas criticized how anyone could have reckless disregard for another person’s legal status.

Huertas said HB2350 is intended to punish people who transport or harbor illegal aliens and not people who exploit illegal aliens. Huertas said only after “the most intense debates” the three elements now included in the statute were finally introduced.

Huertas reminded the audience of their presumption of innocence and explained the burden of proving all three elements of the crime lie on the prosecution.

The next section of Huertas’ presentation was what she defined as “practical cases” of the application of HB2350. Huertas gave different scenarios and spoke about whether the scenario could result in criminal charges arising from HB2350. The scenarios are as follows:

- If I take my undocumented unemployed spouse on a family trip could I be charged?

Huertas said “No” because the second two elements could not be proven.

- If I give my undocumented friend a ride somewhere and they give me gas money could I be charged?

Huertas said “No” because that scenario would not fulfill the element regarding exploitation.

- If I live in a home of mixed legal status and my undocumented family member contributes financially with wages paid from fair employment which pays a legal wage could I be charged?

Huertas said “No”.

- If I transport someone to a job where they are treated unfairly (paid less than minimum wage, do not provide safety equipment etc.) could I be charged?

Huertas said it is “unclear” and it would most likely depend on the prosecutor to decide.

- If I live in a home of mixed legal status and my undocumented family member contributes financially with wages earned at a job which treats them unfairly could I be charged?

Huertas said it is “unclear”. Huertas said in this scenario the undocumented family member is exploited at their job. Huertas said it is common knowledge that immigrants are often paid less than their citizen counterparts.

- If I do social work or community service and I house a minor while they pay off a debt through exploitive work could I be charged?

Huertas said this scenario touches on the most argued points and the answer is “unclear”. Huertas said the accuser would have to prove the person harboring the minor received “anything of value”. Huertas highlighted that “anything of value” does not need to be related to the actual exploitation of the minor.

Huertas transitioned to the next section of her presentation by asking the audience, “What can we do to protect ourselves?”

Huertas posed the question What can I do during contact with legal authorities while I am transporting someone who does not have legal status?”

Huertas reminded the audience they have the right to remain silent and that anything they say could be used against them. Huertas said anyone can refuse to answer questions regarding their or someone else’ legal status.

Huertas said anyone has the right to record police interactions and police cannot prevent them from recording. Huertas said not all police record their interactions with the public due to policy or budget constraints.

Huertas explained the difference between a temporary detention and an arrest. Huertas said police have the right to detain someone while they contact ICE or verify someone's legal status.

Huertas highlighted the fact that HB2350 applies to someone transporting an illegal alien, not to the illegal alien themselves. Huertas did not explicitly say, but implied that an illegal alien could not be detained in relation to HB2350, but someone transporting them could be detained.

Huertas urged the audience to be careful about requests to accompany police to a police department for further questioning. Huertas said going voluntarily to a police department for questioning could be misconstrued as consent.

Huertas said the best course of action during a police interaction is to ask if you are free to go. Huertas said if the police say you are not free to go to ask if you are detained or arrested and why.

Huertas said if someone is arrested the officer needs to prove probable cause for the arrest and read and abide by the arrestee's Miranda rights. Huertas said the most important thing to consider during police interactions is a person's right to remain silent. Huertas said never speak to police without an attorney present.

Huertas said never to run from police. Huertas said running from police would give them probable cause for an arrest.

Huertas gave the example of a traffic stop where the driver has no license.

Huertas said driving without a valid license is a misdemeanor offense and it is better to receive a ticket and go to court with a lawyer than to speak to police and risk being charged with a felony.

Huertas said the most important advice she could give was to never sign any document without an attorney present. Huertas said police documents are highly technical and it is best to have a lawyer present who can understand and explain the documents before someone signs them.

Huertas said in order to protect the community it is important to never ask clients, patients, or customers questions regarding their legal status. Huertas said businesses have no obligation to keep records regarding their clients' legal status and urged against keeping such documentation.

Huertas said her organization provides "know your rights" cards which could be handed to a police officer instead of talking to them. Huertas said it is also important to have a plan in case the main source of income in a household is taken into detention. Huertas showed an "ICE family preparedness plan" on screen. Huertas said it is also important for immigrants to develop relationships with immigration lawyers and defense attorneys in case they are needed as a result of HB2350.

Huertas asked "What can I do if I work closely with the immigrant population?" Huertas advised businesses to designate a single person to handle police interactions. Huertas said to train all other employees not to answer questions regarding immigration. Huertas said the person in charge of speaking to police should make it clear they do not consent to police entering or searching the business. Huertas said if

the police say they will return with a warrant to contact a lawyer and try to have them present before police return.

Huertas said if a search is conducted it is important to document police conduct with photos and detailed notes which can be used as evidence in court. Huertas said before a search is conducted it is important to review the warrant carefully to be sure officers are adhering to the scope of the search. Huertas said a warrant which authorizes an inspection of a business is not the same as a warrant authorizing the search of a business. Huertas said if a search is being conducted the only information anyone needs to provide to police is their real name.

Huertas reminded the audience HB2350 is a state law and violators of the law could not be held in a federal detention facility or be deported. Huertas said the law targets those transporting illegal immigrants and poses no risk for illegal immigrants.

Huertas said the supreme court recently published an opinion that state courts cannot challenge the discretion of federal agencies or courts. Huertas said ICE has stated their priorities are to deport illegal aliens that pose a threat to national security, public safety, or border security. Huertas said during 2021 the priority was to deport any illegal alien who arrived in the U.S. during the last two years. Huertas said this priority later changed to any illegal alien within 150 miles of the southern border. Huertas said the current administration uses their discretion to target illegal aliens who pose threats to public safety. Huertas said ICE can exercise their discretion as they see fit and HB2350 does not give Kansas the ability to challenge that discretion.

Huertas ended her presentation by urging listeners to protect themselves by always recording police interactions, never answering questions and reminded the

audience to never run from police because that would only give probable cause for an arrest.

Huertas then fielded two questions from the audience. One question was unrelated to HB2350 and Huertas explained how a notary could not be charged under this bill because a notary would not transport or harbor an illegal alien.

The second question was regarding the Miranda warning and how a Spanish speaking person could be sure officers were accurately reading them their rights after an arrest. Huertas explained it is not always possible for agencies to have a bilingual officer available. Huertas said a non-Spanish-speaking officer has no obligation to read a person their Miranda warning in Spanish. Huertas said it is important for each person to know their rights before they are contacted by police.

The second half of the meeting was led by Carla Rivas-D'Amico who is the Executive Director of the KHLAAC. Edgar J. Palacios, CEO of the Latinx Education Collaborative in Kansas City and another speaker whose name is unknown to me also contributed to the second half of the presentation.

D'Amico's presentation was regarding government functions and she urged everyone present to become involved in their own government. D'Amico's presentation would best be categorized as lobbying for the current Governor of Kansas.

D'Amico's presentation had little to do with HB2350 other than her speaking about how the current governor was not in favor of it and vetoed it. At least one family present in person left during this portion of the presentation.

The only portion of D'Amico's presentation which caused me any concern was regarding how illegal aliens could influence elections. D'Amico explained illegal aliens could lobby and demonstrate in favor or against politicians. D'Amico then said illegal aliens could work in polling places or as election judges and in this way influence elections. D'Amico stated these positions are filled by volunteers and it was not necessary to be a citizen to serve in these functions. Although not expressly stated, I felt this implied an illegal alien could become involved in election tampering.

After D'Amico spoke Huertas gave some closing remarks. Huertas urged anyone listening to document police interactions and to contact her office if they witnessed what they believed was a targeted or discriminatory arrest related to HB2350.

D'Amico took some questions from the audience through Zoom chat. One participant asked if the Governor's office was doing anything to influence the way the Kansas Highway Patrol would enforce HB2350. D'Amico said the office in charge of directing all law enforcement agencies in the state of Kansas is the Attorney General's Office. D'Amico said conversations are taking place "behind the scenes", but the Attorney General's office has yet to provide a clear statement on how HB2350 should be enforced. D'Amico said conversations are also taking place with other law enforcement agencies, but some law enforcement agencies are more approachable than others. Huertas told the audience if anyone listening had law enforcement contacts to help by facilitating conversations between them and her office.

Huertas told the audience another meeting regarding HB2350 would take place on July 13, 2023 at the UFCW2 building in Dodge City, Kansas.

At the end of the presentation some listeners stayed behind to provide their information to Melissa McCoy so they could receive more materials and information regarding HB2350. I was approached by Jose Garcia and I greeted him cordially. Due to past interactions with Garcia I was concerned he would alert the rest of the audience that I was a police officer which could have led to some controversy, so I left with the first group of audience members.

Respectfully,

Jose Soto #D336

Dodge City Police Department

06/30/2023

Bingesser, Matt

From: Laura Francis [REDACTED]
Sent: Friday, June 30, 2023 2:21 PM
To: Kris Kobach; Kobach, Kris
Subject: Human Smuggling Workshops
Attachments: image0.jpeg; image1.jpeg; image3.jpeg

CAUTION: This email originated from outside of the Office of The Attorney General of Kansas organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Kris,

Attached are a few poster invitations from the Kansas Hispanic & Latino American Affairs Commission, along with other organizations, promoting community informational meetings on HB2350/Human Smuggling law. I believe the DCPD LEO report was sent to you as well that covers the content of these meetings, put on by the governor's office and spreading misinformation and division. Thank you for tackling this and helping Kansas be more safe!

Laura Francis
Dodge City



City of Dodge City - Government

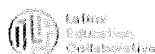
Jun 21 · 🌐

The Kansas Hispanic and Latino Affairs Commission (KHLAAC) and UFCW2 will provide an informative virtual session on House Bill 2350 (Crimes of Human Smuggling) on June 28th from 6:00 pm to 8:00 pm. To access this event, scan the QR code below or view the event in person at the Dodge City Public Library at 1001 N. 2nd Avenue, Dodge City.

La Comisión de Asuntos Hispanos y Latinos de Kansas (KHLAAC) y UFCW2 ofrecerán una sesión informativa virtual sobre el proyecto de ley 2350 de la Cámara de Representantes de Kansas (Crímenes de Contrabando de Personas) el 28 de Junio de 6:00 pm a 8:00 pm. Para acceder a este evento, escanee el código QR a continuación o vea el evento en persona en la Biblioteca Pública de Dodge City en 1001 N. 2nd Avenue, Dodge City.

See translation

Virtual Informative Session



June 28th
6:00 pm-8:00

Sesión informativa virtual



28 de Junio
6:00 pm-8:00

UPCOMING WORKSHOPS

ANGRY ABOUT THE NEW LAW (HB 2350) TARGETING THE LATINO COMMUNITY?

JOIN US FOR A FREE WORKSHOP ON WHAT YOU CAN DO ABOUT IT, HOW THE NEW LAW CAME TO BE, AND WHAT THE COMMUNITY NEEDS TO KNOW.

JUNE 1ST | WICHITA, KS | EVERGREEN COMMUNITY CENTER

JUNE 8TH | OLATHE, KS | EL CENTRO INC

JUNE 22ND | KANSAS CITY, KS | EL CENTRO INC

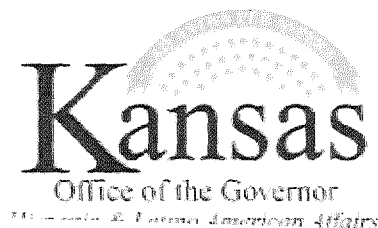
JUNE 27TH | LIBERAL, KS | CROSSPOINT LIBERAL

DODGE CITY | DATE TO BE ANNOUNCED

GARDEN CITY | DATE TO BE ANNOUNCED

TOPEKA | DATE TO BE ANNOUNCED

STAY TUNED FOR FURTHER DETAILS



KHLAAC PRESENTS

MI VOTO MI VIDA

ANGRY ABOUT THE NEW LAW TARGETING THE LATINO COMMUNITY?

JOIN US FOR A FREE WORKSHOP ON **WHAT YOU CAN DO ABOUT IT**,
HOW THE NEW LAW CAME TO BE, AND WHAT THE COMMUNITY
NEEDS TO KNOW.

THURSDAY, JUNE 22, 2023 | 6:00-8:00 PM

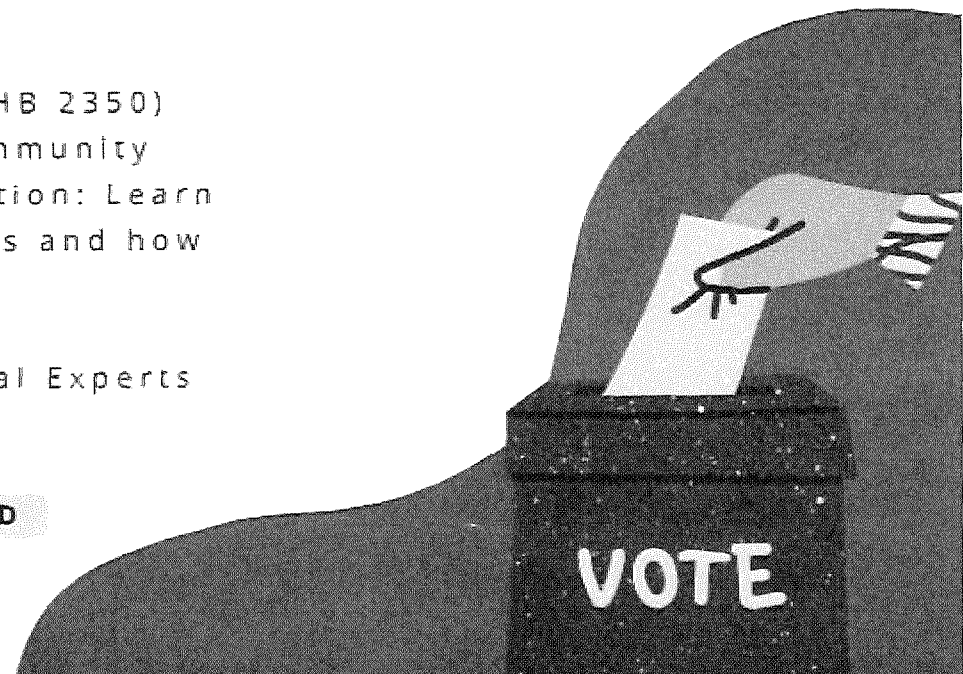
EL CENTRO INC.

650 MINNESOTA AVE #2, KANSAS CITY, KS 66101

WHAT TO EXPECT:

- Learn How the New Law (HB 2350) Will Affect the Latino Community
- Civic and electoral education: Learn how the government works and how to make a difference
- Advocacy Training
- Hear From a Panel of Local Experts and Organizations

FREE DINNER WILL BE PROVIDED



Addendum
Expert Report of Rubén Martinez, Ph.D. submitted on May 21, 2023
January 12, 2024

A.4.20 I have been provided with a copy of the email message by Dodge City Chief of Police Drew Francis to Kansas Attorney General Kris Kobach dated June 30, 2023 containing a copy of a report by Officer Jose Soto who attended a public meeting organized by the Kansas Hispanic & Latino American Affairs Commission at the Dodge City Public Library to discuss the newly enacted policy HB2350 titled “Crime of Human Smuggling.” Officer Soto attended the meeting as an undercover officer and secretly recorded the discussion that occurred at the meeting. Also included in the materials is an email message by Laura Francis, Coordinator, Kansas Law Enforcement Training Center, dated June 30, 2023 to Attorney General Kobach.

In his message to the Attorney General, Chief Francis expresses concern about misinformation relative to HB2350 and an interest “in protecting the department’s community relations and trust,” presumably with regard to the Hispanic community. Targeting a public meeting on HB23250 by Hispanic leaders for undercover surveillance indicates his view that Hispanics are the central focus of the new law. Further, since the report by Officer Soto is “unclassified and open to the public,” according to Chief Francis, it does not make sense that trust with the Hispanic community can be protected or improved by undercover surveillance. It is more likely that trust is diminished. Further, Coordinator Francis characterizes the session as “spreading misinformation and division.”

These activities and comments relative to the Hispanic community in Dodge City reflect institutional racial dynamics wherein the Hispanic community is targeted as a potential problem rather than one deserving of protection. They provide further evidence that Dodge City has continuing racial dynamics and strengthen my conclusion in my report that institutional discrimination against Hispanics persists. There is an absence of open communications, distortion of the concerns expressed by Hispanic community leaders, and the perception that Hispanic leaders, appointed by the Governor to address public policy concerns, expressed a hostile perspective against the police. These activities and comments do little to build trust between the Dodge City Police Department and the local Hispanic community and reflect the racial dynamics that exist between the two entities.

Rubén Martinez

Rubén Martinez, Ph.D

PLAINTIFFS'
EXHIBIT
144

Addendum Appendix

Additional Documents reviewed in connection with Miguel Coca and Alejandro Rangel-Lopez (the “Plaintiffs”) in voting rights litigation currently pending in the United States District Court for the District of Kansas

Francis, D. (2023, June 30). Email to AG Kobach with attachments.

APPENDIX A

Bingesser, Matt

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Cc: kkobach@gmail.com
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Attachments: officers report final.doc

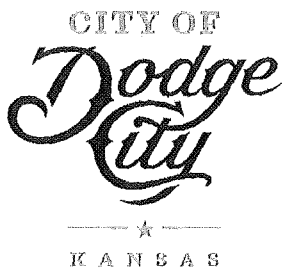
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They also state that they are waiting for some direction to KS LE from the KS AG's Office, and until that happens, too much is "unclear", so the best advice is to avoid police encounters and do not talk to them without an attorney. Please review the report and let me know if you have any questions or want anything further.

Thank you,
Drew



DREW FRANCIS
CHIEF OF POLICE
drewf@dodgecity.org

POLICE DEPARTMENT

110 W. Spruce St.
Dodge City Kansas 67801
620.225.8126

***Hearing and/or speech-impaired persons using a TDD/TTY may contact City Staff through the Kansas Relay Center at 711 or 1-800-766-3777.

Officer's Report

Date 06/30/2023

Officer: J. Soto D336

Attention: Chief D. Francis

Subject: Meeting regarding Kansas HB2350

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Huertas explained the statute categorizes human smuggling as a severity level 3 person felony. Huertas explained the crime of human smuggling carries a possible prison sentence and fines. Huertas said citizens could take some relief in the fact the bill does not carry deportation as a possible sentence. Huertas pointed out the statute would also penalize documented citizens who transport or harbor illegal aliens, not only illegal aliens who are transporting or harboring other illegal aliens.

Huertas said the new bill was superfluous because K.S.A 21-5426 has been in effect since 2012. Huertas said K.S.A. 21-5426 already criminalizes exploiting illegal aliens for financial gain referencing the first section of the statute.

Huertas circled back to the “vague language” of the statute and said the most important thing to consider is the fact it was not necessary to prove a causal link exists between the transporter of an illegal alien receiving “anything of value” and the illegal alien being exploited by another party. Huertas said HB2350 equally penalizes transporting or harboring an illegal alien and exploiting them.

Huertas went on to ask how anyone could possibly know another person’s legal status or if they are being exploited. Huertas said HB2350 opens the door for “higher prosecution” but did not explain how. Huertas asked the audience “Why make this law when one already exists?”

Huertas said K.S.A. 21-5426 is “more technical” and “is more clear about what must be brought to court for conviction”. Huertas pointed out K.S.A 21-5426 uses the language “any person” while HB2350 specifically references illegal aliens.

Huertas then asked the Audience “Who does this law protect?”. Huertas explained the history of HB2350. Huertas said when HB2350 was originally drafted it lacked the two elements regarding receiving anything of value and knowing the illegal alien would be exploited. Huertas said the original draft of HB2350 made transporting an illegal alien a felony on its own. Huertas said only after intense debate the second and third elements were added.

Huertas said in later drafts of HB2350 the language of the first section of the statute was amended. Huertas said the section of HB2350 which now reads, “Knows, or

should have known” originally read “with reckless disregard in exchange for anything of value”. Huertas criticized how anyone could have reckless disregard for another person’s legal status.

Huertas said HB2350 is intended to punish people who transport or harbor illegal aliens and not people who exploit illegal aliens. Huertas said only after “the most intense debates” the three elements now included in the statute were finally introduced.

Huertas reminded the audience of their presumption of innocence and explained the burden of proving all three elements of the crime lie on the prosecution.

The next section of Huertas’ presentation was what she defined as “practical cases” of the application of HB2350. Huertas gave different scenarios and spoke about whether the scenario could result in criminal charges arising from HB2350. The scenarios are as follows:

- If I take my undocumented unemployed spouse on a family trip could I be charged?

Huertas said “No” because the second two elements could not be proven.

- If I give my undocumented friend a ride somewhere and they give me gas money could I be charged?

Huertas said “No” because that scenario would not fulfill the element regarding exploitation.

- If I live in a home of mixed legal status and my undocumented family member contributes financially with wages paid from fair employment which pays a legal wage could I be charged?

Huertas said “No”.

- If I transport someone to a job where they are treated unfairly (paid less than minimum wage, do not provide safety equipment etc.) could I be charged?

Huertas said it is “unclear” and it would most likely depend on the prosecutor to decide.

- If I live in a home of mixed legal status and my undocumented family member contributes financially with wages earned at a job which treats them unfairly could I be charged?

Huertas said it is “unclear”. Huertas said in this scenario the undocumented family member is exploited at their job. Huertas said it is common knowledge that immigrants are often paid less than their citizen counterparts.

- If I do social work or community service and I house a minor while they pay off a debt through exploitive work could I be charged?

Huertas said this scenario touches on the most argued points and the answer is “unclear”. Huertas said the accuser would have to prove the person harboring the minor received “anything of value”. Huertas highlighted that “anything of value” does not need to be related to the actual exploitation of the minor.

Huertas transitioned to the next section of her presentation by asking the audience, “What can we do to protect ourselves?”

Huertas posed the question What can I do during contact with legal authorities while I am transporting someone who does not have legal status?”

Huertas reminded the audience they have the right to remain silent and that anything they say could be used against them. Huertas said anyone can refuse to answer questions regarding their or someone else’ legal status.

Huertas said anyone has the right to record police interactions and police cannot prevent them from recording. Huertas said not all police record their interactions with the public due to policy or budget constraints.

Huertas explained the difference between a temporary detention and an arrest. Huertas said police have the right to detain someone while they contact ICE or verify someone's legal status.

Huertas highlighted the fact that HB2350 applies to someone transporting an illegal alien, not to the illegal alien themselves. Huertas did not explicitly say, but implied that an illegal alien could not be detained in relation to HB2350, but someone transporting them could be detained.

Huertas urged the audience to be careful about requests to accompany police to a police department for further questioning. Huertas said going voluntarily to a police department for questioning could be misconstrued as consent.

Huertas said the best course of action during a police interaction is to ask if you are free to go. Huertas said if the police say you are not free to go to ask if you are detained or arrested and why.

Huertas said if someone is arrested the officer needs to prove probable cause for the arrest and read and abide by the arrestee's Miranda rights. Huertas said the most important thing to consider during police interactions is a person's right to remain silent. Huertas said never speak to police without an attorney present.

Huertas said never to run from police. Huertas said running from police would give them probable cause for an arrest.

Huertas gave the example of a traffic stop where the driver has no license.

Huertas said driving without a valid license is a misdemeanor offense and it is better to receive a ticket and go to court with a lawyer than to speak to police and risk being charged with a felony.

Huertas said the most important advice she could give was to never sign any document without an attorney present. Huertas said police documents are highly technical and it is best to have a lawyer present who can understand and explain the documents before someone signs them.

Huertas said in order to protect the community it is important to never ask clients, patients, or customers questions regarding their legal status. Huertas said businesses have no obligation to keep records regarding their clients' legal status and urged against keeping such documentation.

Huertas said her organization provides "know your rights" cards which could be handed to a police officer instead of talking to them. Huertas said it is also important to have a plan in case the main source of income in a household is taken into detention. Huertas showed an "ICE family preparedness plan" on screen. Huertas said it is also important for immigrants to develop relationships with immigration lawyers and defense attorneys in case they are needed as a result of HB2350.

Huertas asked "What can I do if I work closely with the immigrant population?" Huertas advised businesses to designate a single person to handle police interactions. Huertas said to train all other employees not to answer questions regarding immigration. Huertas said the person in charge of speaking to police should make it clear they do not consent to police entering or searching the business. Huertas said if

the police say they will return with a warrant to contact a lawyer and try to have them present before police return.

Huertas said if a search is conducted it is important to document police conduct with photos and detailed notes which can be used as evidence in court. Huertas said before a search is conducted it is important to review the warrant carefully to be sure officers are adhering to the scope of the search. Huertas said a warrant which authorizes an inspection of a business is not the same as a warrant authorizing the search of a business. Huertas said if a search is being conducted the only information anyone needs to provide to police is their real name.

Huertas reminded the audience HB2350 is a state law and violators of the law could not be held in a federal detention facility or be deported. Huertas said the law targets those transporting illegal immigrants and poses no risk for illegal immigrants.

Huertas said the supreme court recently published an opinion that state courts cannot challenge the discretion of federal agencies or courts. Huertas said ICE has stated their priorities are to deport illegal aliens that pose a threat to national security, public safety, or border security. Huertas said during 2021 the priority was to deport any illegal alien who arrived in the U.S. during the last two years. Huertas said this priority later changed to any illegal alien within 150 miles of the southern border. Huertas said the current administration uses their discretion to target illegal aliens who pose threats to public safety. Huertas said ICE can exercise their discretion as they see fit and HB2350 does not give Kansas the ability to challenge that discretion.

Huertas ended her presentation by urging listeners to protect themselves by always recording police interactions, never answering questions and reminded the

audience to never run from police because that would only give probable cause for an arrest.

Huertas then fielded two questions from the audience. One question was unrelated to HB2350 and Huertas explained how a notary could not be charged under this bill because a notary would not transport or harbor an illegal alien.

The second question was regarding the Miranda warning and how a Spanish speaking person could be sure officers were accurately reading them their rights after an arrest. Huertas explained it is not always possible for agencies to have a bilingual officer available. Huertas said a non-Spanish-speaking officer has no obligation to read a person their Miranda warning in Spanish. Huertas said it is important for each person to know their rights before they are contacted by police.

The second half of the meeting was led by Carla Rivas-D'Amico who is the Executive Director of the KHLAAC. Edgar J. Palacios, CEO of the Latinx Education Collaborative in Kansas City and another speaker whose name is unknown to me also contributed to the second half of the presentation.

D'Amico's presentation was regarding government functions and she urged everyone present to become involved in their own government. D'Amico's presentation would best be categorized as lobbying for the current Governor of Kansas.

D'Amico's presentation had little to do with HB2350 other than her speaking about how the current governor was not in favor of it and vetoed it. At least one family present in person left during this portion of the presentation.

The only portion of D'Amico's presentation which caused me any concern was regarding how illegal aliens could influence elections. D'Amico explained illegal aliens could lobby and demonstrate in favor or against politicians. D'Amico then said illegal aliens could work in polling places or as election judges and in this way influence elections. D'Amico stated these positions are filled by volunteers and it was not necessary to be a citizen to serve in these functions. Although not expressly stated, I felt this implied an illegal alien could become involved in election tampering.

After D'Amico spoke Huertas gave some closing remarks. Huertas urged anyone listening to document police interactions and to contact her office if they witnessed what they believed was a targeted or discriminatory arrest related to HB2350.

D'Amico took some questions from the audience through Zoom chat. One participant asked if the Governor's office was doing anything to influence the way the Kansas Highway Patrol would enforce HB2350. D'Amico said the office in charge of directing all law enforcement agencies in the state of Kansas is the Attorney General's Office. D'Amico said conversations are taking place "behind the scenes", but the Attorney General's office has yet to provide a clear statement on how HB2350 should be enforced. D'Amico said conversations are also taking place with other law enforcement agencies, but some law enforcement agencies are more approachable than others. Huertas told the audience if anyone listening had law enforcement contacts to help by facilitating conversations between them and her office.

Huertas told the audience another meeting regarding HB2350 would take place on July 13, 2023 at the UFCW2 building in Dodge City, Kansas.

At the end of the presentation some listeners stayed behind to provide their information to Melissa McCoy so they could receive more materials and information regarding HB2350. I was approached by Jose Garcia and I greeted him cordially. Due to past interactions with Garcia I was concerned he would alert the rest of the audience that I was a police officer which could have led to some controversy, so I left with the first group of audience members.

Respectfully,

Jose Soto #D336

Dodge City Police Department

06/30/2023

Bingesser, Matt

From: Laura Francis [REDACTED]
Sent: Friday, June 30, 2023 2:21 PM
To: Kris Kobach; Kobach, Kris
Subject: Human Smuggling Workshops
Attachments: image0.jpeg; image1.jpeg; image3.jpeg

CAUTION: This email originated from outside of the Office of The Attorney General of Kansas organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Kris,

Attached are a few poster invitations from the Kansas Hispanic & Latino American Affairs Commission, along with other organizations, promoting community informational meetings on HB2350/Human Smuggling law. I believe the DCPD LEO report was sent to you as well that covers the content of these meetings, put on by the governor's office and spreading misinformation and division. Thank you for tackling this and helping Kansas be more safe!

Laura Francis
Dodge City



The Kansas Hispanic and Latino Affairs Commission (KHLAAC) and UFCW2 will provide an informative virtual session on House Bill 2350 (Crimes of Human Smuggling) on June 28th from 6:00 pm to 8:00 pm. To access this event, scan the QR code below or view the event in person at the Dodge City Public Library at 1001 N. 2nd Avenue, Dodge City.

La Comisión de Asuntos Hispanos y Latinos de Kansas (KHLAAC) y UFCW2 ofrecerán una sesión informativa virtual sobre el proyecto de ley 2350 de la Cámara de Representantes de Kansas (Crímenes de Contrabando de Personas) el 28 de Junio de 6:00 pm a 8:00 pm. Para acceder a este evento, escanee el código QR a continuación o vea el evento en persona en la Biblioteca Pública de Dodge City en 1001 N. 2nd Avenue, Dodge City.

See translation

Virtual Informative Session



June 28th
6:00 pm-8:00

Sesión informativa virtual



28 de Junio
6:00 pm-8:00

UPCOMING WORKSHOPS

ANGRY ABOUT THE NEW LAW (HB 2350) TARGETING THE LATINO COMMUNITY?

JOIN US FOR A FREE WORKSHOP ON WHAT YOU CAN DO ABOUT IT, HOW THE NEW LAW CAME TO BE, AND WHAT THE COMMUNITY NEEDS TO KNOW.

JUNE 1ST | WICHITA, KS | EVERGREEN COMMUNITY CENTER

JUNE 8TH | OLATHE, KS | EL CENTRO INC

JUNE 22ND | KANSAS CITY, KS | EL CENTRO INC

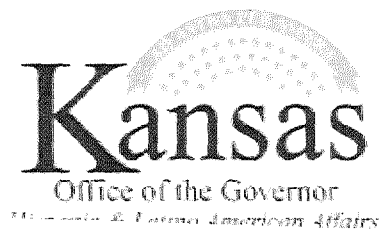
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KHLAAC PRESENTS

MI VOTO MI VIDA

ANGRY ABOUT THE NEW LAW TARGETING THE LATINO COMMUNITY?

JOIN US FOR A FREE WORKSHOP ON **WHAT YOU CAN DO ABOUT IT**,
HOW THE NEW LAW CAME TO BE, AND WHAT THE COMMUNITY
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THURSDAY, JUNE 22, 2023 | 6:00-8:00 PM

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WHAT TO EXPECT:

- Learn How the New Law (HB 2350) Will Affect the Latino Community
- Civic and electoral education: Learn how the government works and how to make a difference
- Advocacy Training
- Hear From a Panel of Local Experts and Organizations

FREE DINNER WILL BE PROVIDED

