



Governorship would give Kobach new ways to target immigrants

Sam Peak

September 2, 2018

August 14 was a bittersweet day for immigration advocates in Kansas. That afternoon, news broke that Syed Jamal, the Lawrence chemist whose January detainment by Immigration and Customs Enforcement (ICE) gained national attention, had his imminent deportation halted. But come evening, the good news was overshadowed when Kansas Secretary of State and immigration hardliner Kris Kobach defeated incumbent Governor Jeff Colyer in the GOP gubernatorial primary.

Since launching his campaign, Kobach has made immigration the centerpiece of his platform, promising to uphold the safety of Kansans by ensuring that state law enforcement “cooperate fully with ICE.” But if Kobach is elected governor, his agenda would only put thousands of contributing and otherwise law-abiding immigrants in danger of deportation.

For example, Kobach would be able to instruct state troopers to enter into ICE partnerships detailed in section 287(g) of the Immigration and Nationality Act (INA). This federal provision allows state and local law governments to enter agreements with ICE to train and authorize their police to enforce federal immigration law.

There are several different types of 287(g) agreements jurisdictions can enter. Jail enforcement agreements allow law enforcement to interrogate and screen inmates to verify their legal status. If they discover that an inmate is undocumented, they can detain the immigrant beyond their initial release for ICE to pick up and possibly deport. Task force agreements allow officers to interrogate, screen, and detain immigrants during normal policing operations. Hybrid agreements give police both jail and task force authority.

Through the program, thousands of undocumented immigrants have been deported after being swept up by law enforcement for minor offenses. The Migration Policy Institute conducted a study in 2011 that investigated seven 287(g) jurisdictions. They found that half of ICE detainers issued through 287(g) were against immigrants stopped for misdemeanors and traffic offenses. In some jurisdictions, the number was as high as 80 percent. Jail enforcement agreements barely fared better than task force ones. These numbers reveal that a program designed to target dangerous criminals is in practice used against minorities committing mundane offenses.

In 2012, during his second term in office, President Obama terminated agreements using task force powers. Once President Trump took office, Kobach succeeded in pushing for the

program's expansion that revived the task force powers as a member of the president's transition team.

A week later, Kansas lawmakers introduced Kobach-drafted bills that would enlist state highway patrolmen into the abuse-ridden program. During legislative testimony, the Kansas Highway Patrol and the Kansas Sheriffs' Association expressed concerns that enforcing federal immigration law would leave the agencies vulnerable to costly lawsuits.

Nobody knows what Kobach will do with the program if elected. In February of 2017, he told the Kansas City Star that he would prefer that the legislature codify 287(g) into state law rather than being issued at the governor's request. Since both of his bills died last May, it's possible he has changed his mind. But if not, a Governor Kobach would likely pressure sheriffs and other local officials to enter the program. In a 2016 statement to USA Today, he suggested that 287(g) be "ratcheted back up to at least 70 cities and counties" nationally.

For all the 287(g) program's abuses, it has no proven track record of combating crime. Last April, the Cato Institute's Andrew Forrester and Alex Nowrasteh found that 287(g) had no impact on local crime rates in North Carolina—in fact, the program may have increased instances of police assault. "Police officers in North Carolina also appear to be victims of this program that fails to reduce crime," wrote Nowrasteh.

It's no surprise that crime reduction programs targeting immigrants would have such abysmal results. In another Cato study, Michelangelo Landgrave and Nowrasteh found that illegal immigrants are half as likely as American-born citizens to commit serious crimes.

It's clear that Kobach's immigration agenda thrives on little more than ignorance and opportunism. It's up to Kansans to reject it.