



Ron Johnson – Immigrants who are known criminals are not using an arrest warrant to fly on U.S. aircraft

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U.S. Sen. Ron Johnson is among Republicans taking aim at the Biden administration’s handling of immigration at the nation’s Southern border.

In a Feb. 4, 2022 news release about a policy that allows immigrants to use immigration warrants as a form of identification, Johnson included this statement:

“The Biden administration’s disregard for the rule of law knows no bounds. Since the president took office a year ago, we have seen at least 2.4 million people enter this country illegally. For DHS and TSA to allow known criminals who possess an arrest warrant to fly on U.S. aircraft threatens our homeland security.”

The numbers are eye-popping.

In the 2021 fiscal year, which ran from October 2020 through September 2021, U.S. Customs and Border Control reported 1.73 million encounters at the southern border, according to agency data, with apprehensions greatly increasing in the latter months.

So far in fiscal year 2022, there have been more than 518,000 encounters at the border, not including data from January or February.

But what caught our attention is the second part of Johnson’s claim – that immigrants are being permitted to use “arrest warrants” as a form of identification in order to board flights within the U.S., in place of a state-issued I.D. or passport.

Is Johnson right?

Civil forms issued by ICE can be used as identification

When asked for backup, Johnson’s office shared a document written by David Pecoske, the administrator of the TSA, which handles traveler screening for those boarding planes. In the document, accepted forms of identification are listed, including various U.S. Immigration and Customs Enforcement (ICE) forms, Department of Homeland Security forms and others.

The list includes: ICE Form I-200 – Warrant for Arrest of Alien.

Case closed?

Not exactly. It's considerably more complicated than that.

Let's start with Johnson's phrase "arrest warrant," and how it is commonly understood – a document, typically signed by a judge, that authorizes police to arrest someone related to a specific criminal offense. From that vantage point, it's almost nonsensical to think the target of such an arrest would be carrying such a document, much less using it as identification. In fact, the target presumably wouldn't even know that a warrant was issued for their arrest.

So, just what does the document in question represent?

Civil – not criminal – violations are issued by ICE when a person enters the U.S. without the approval of an immigration officer or overstays a work or travel visa.

It is illegal to do so, according to the American Immigration Council, with the first offense amounting to a misdemeanor punishable by a fine or up to six months in prison. The second offense, or illegal re-entry, is a felony punishable by up to two years in prison, but higher penalties can apply depending on the situation.

The I-200 is used in a variety of contexts, according to David Bier, a research fellow with the libertarian Cato Institute. For an asylum seeker crossing into the U.S., he said, ICE would issue the form after Border Patrol has transferred the person to an ICE detention facility.

But because it isn't possible for ICE to detain everyone referred by Border Control, the agency does release individuals, but only after they are deemed not a threat to the community and not a flight risk, Bier said.

"The Form I-200 is often the only personal identification available to a person released by ICE, either because they entered without any ID or, as commonly, because ICE or Customs and Border Patrol has confiscated their passports and released them without any other identification," Bier said in an email to politifact Wisconsin.

Bier said the only alternative to allowing people to use the Form I-200 would be to strand thousands of people in the city they are released in, far away from family or friends.

"Besides being inhumane, no state or city would support such a policy," he said. "The I-200 is issued only after an investigation into the person's identity and would only be possessed by someone released by ICE if they had their fingerprints collected and background check conducted, so it works fine as identification."

What's more, according to the TSA, civil violation documents are not viewed by themselves as indicating someone is a threat to public safety or national security. Indeed, they have been allowed as a form of identification since 2019, a change that took place under President Donald Trump.

Their use is important, because the document can confirm the identity of an individual, which the agency can then use to see if the person is on a no-fly list or does pose a known threat to public safety or national security.

Let's also take a look at Johnson's use of the phrase "known criminal" – according to the Department of Homeland Security, known criminals are persons who have a prior criminal conviction. Just because a person is identifying themselves using an ICE form doesn't mean they have been convicted of a crime.

Finally, the document provided by Johnson's staff itself notes that immigration status, without other issues, is not a factor in the TSA screening process.

So, based on an admittedly misleading title, the senator is misusing – or at least misunderstanding – what the document is.

Our ruling

Johnson claimed that TSA was allowing undocumented immigrants who are "known criminals who possess an arrest warrant to fly on U.S. aircraft (which) threatens our homeland security."

While immigrants can use civil immigration violation documents to prove their identity in order to board planes, those documents are not criminal arrest warrants, as the claim suggests. Indeed, there is no reason to think the target of a criminal arrest warrant would be given a copy of such a warrant, much less carry it with him or herself.

What's more, under the process officials have already established an individual's identity and determined they are not a threat or a flight risk.

That said, a memo from the TSA administrator includes a document labeled "Warrant for Arrest of Alien" on a list of acceptable paperwork. So, there is at least an element of truth to the matter.

That fits our definition of Mostly False.