

# Prof. K Arnold

Addendum 2-2-25 ©

Disclaimer ~

this is legal analysis based on years of research and training but it is not legal advice

# Terminology

- ~all foreigners at or inside US borders are **migrants** (just a general term)
- ~foreigners who apply for **asylum** do so inside the country
- ~foreigners who apply for **refugee status** do so outside or at the border
- ~both **refugee and asylum** status hinge on the same definition of the refugee as defined by UNCHR

## Definition of a Refugee

A **refugee**, according to the Convention, is someone who is unable or unwilling to return to their country of origin owing to a well-founded **fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.**

## *treating status changes as “crime”*

~migration system does not use normal warrants

~arrests—no charges, no adjudication, no court-appointed counsel because migration is civil and not criminal

~ “crime” has to do with status and not a criminal action

~ICE—arguably most discretion of any federal agents; few checks and balances

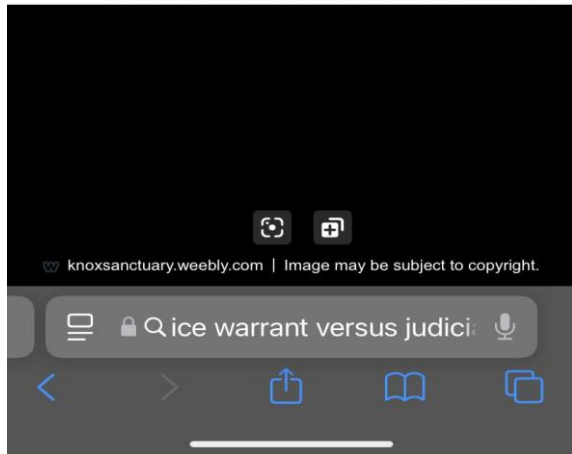
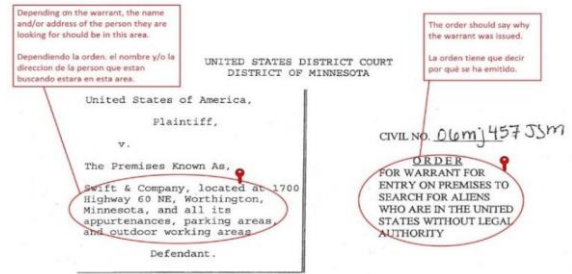
~they use a risk-assessment system that has been found to be inaccurate and ineffective (see Robert Koulish’s work)

~their warrants lack any basis—only a warrant signed by a judge is valid

# valid warrant



Sample Warrant Signed by a Judge



# bogus warrant (ICE warrant)—they have no evidence

U.S. DEPARTMENT OF HOMELAND SECURITY Warrant for Arrest of Alien

File No. \_\_\_\_\_

Date: \_\_\_\_\_

**The** Any Immigration officer authorized pursuant to sections 235 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, in executing warrants of arrest for immigration violations.

This section is correct as written... this section is correct... unless you have some evidence to the contrary to create an exception.

I have determined that there is probable cause to believe that \_\_\_\_\_ is removable from the United States. This determination is based upon:

From a credible source... the credibility of ongoing criminal proceedings against the subject... the failure to establish admissibility subsequent to deferred inspection... the alien's notification of the outposts... the alien's notification... that the subject either lacks appropriate status or is not following such status... the alien's notification... that the subject either lacks appropriate status or is not following such status...

- the execution of a stoppage document in initiating criminal proceedings against the subject.
- the pending or ongoing criminal proceedings against the subject.
- the failure to establish admissibility subsequent to deferred inspection.
- the alien's notification of the outposts... and a revocation check of border status... that the subject either lacks appropriate status or is not following such status... the alien's notification... that the subject either lacks appropriate status or is not following such status...
- the alien's notification... that the subject either lacks appropriate status or is not following such status...

This is the... this section is correct... unless you have some evidence to the contrary to create an exception.

**YOU ARE COMMANDED** to appear before the immigration officer at the time and place specified in this warrant and to answer the questions of the immigration officer.

This is the... this section is correct... unless you have some evidence to the contrary to create an exception.

**Certificate of Service**

I hereby certify that the Warrant for Arrest of Alien was served by me on \_\_\_\_\_ (Name of Alien) on \_\_\_\_\_ (Date of Service) and the contents of this notice were read to him or her in the \_\_\_\_\_ (Language) language.

\_\_\_\_\_ (Name of Officer) \_\_\_\_\_ (Title of Officer)

\_\_\_\_\_ (Name of Recipient of Affidavit)

*ICE is often fishing through profiling—they ask questions and if people open their door or talk, they entrap themselves*

**Family Support Line: ICIRR 1(855) 453-7693**

<p style="text-align: center;"><b>Tarjeta De Derechos</b></p> <ul style="list-style-type: none"> <li>• Le estoy dando esta tarjeta porque no deseo hablar o tener mas contacto con usted.</li> <li>• Yo elijo ejercer mi derecho a mantenerme callado y me niego a contestar sus preguntas.</li> <li>• Si me arresta, seguiré ejerciendo mi derecho a mantenerme callado y a negarme a contestar sus preguntas.</li> <li>• Yo quiero hablar con un abogado antes de contestar Quiero contactar a este abogado/organización:</li> </ul> <hr/>	<p style="text-align: center;"><b>Rights Card</b></p> <p style="text-align: center;">I am giving you this card because I do not wish to speak to you or have any further contact with you.</p> <p style="text-align: center;">I choose to exercise my right to remain silent and to refuse to answer any questions.</p> <p style="text-align: center;">If you arrest me, I will continue to exercise my right to remain silent and to refuse to answer your questions.</p> <p style="text-align: center;">I want to speak with a lawyer before answering your questions.</p> <p style="text-align: center;">I would like to contact this attorney or organization:</p>
<p>میں اس کارڈ کو اسلئے دے رہا ہوں کہ میں آپ سے بات نہ کرنا چاہتا ہوں۔</p> <p>میں اپنا خاموش رہنے کا حق استعمال کرنا چاہتا ہوں اور کسی بھی سوال کا جواب دینے سے انکار کرنا چاہتا ہوں۔</p> <p>اگر آپ مجھے گرفتار کریں گے تو میں اپنا خاموش رہنے کا حق استعمال کرونگا اور کسی بھی سوال کا جواب دینے سے انکار کرتا ہوں۔</p> <p>میں کسی بھی سوال کا جواب دینے سے پہلے وکیل سے بات کرنا چاہتا ہوں۔</p> <p>میں اس وکیل یا اس تنظیم سے مشورہ کرنا چاہتا ہوں۔</p> <hr/>	<p style="text-align: center;"><b>ICIRR</b> ILLINOIS COALITION FOR IMMIGRANT AND REFUGEE RIGHTS</p> <p style="text-align: center;">Call the Family Support Hotline</p> <p style="text-align: center;"><b>1 (855) HELP-MY-FAMILY</b> <b>1 (855) 435-7693</b></p> <p style="text-align: center;">www.icirr.org/riseup    للغة العربية اضغط # 3</p>
<p style="text-align: center;"><b>بطاقات الحقوق</b></p> <p>أنا حامل هذه البطاقة لرفض أن أتحدث إليكم الآن أو بالمستقبل</p> <p>أريد ممارسة حقوقي في التزام الصمت ورفض الإجابة عن أي أسئلة.</p> <p>إذا تم اعتقالني ، سأستمر في ممارسة حقوقي بالتزام الصمت ورفض الإجابة على أسئلتكم.</p> <p>أريد التحدث مع محامي قبل الإجابة على الأسئلة.</p> <p>أريد الاتصال بهذه المؤسسة أو محامي:</p> <hr/>	<p style="text-align: center;"><b>Rights Card</b></p> <ul style="list-style-type: none"> <li>• I am giving you this card because I do not wish to speak to you or have any further contact with you</li> <li>• I choose to exercise my right to remain silent and to refuse to answer any questions</li> <li>• If you arrest me, I will continue to exercise my right to remain silent and to refuse to answer your questions</li> <li>• I want to speak with a lawyer before answering your questions</li> <li>• I would like to contact this attorney or organization:</li> </ul>

# Know Your Rights Cards

## You have constitutional rights:

- **DO NOT OPEN THE DOOR** if an immigration agent is knocking. If you are inside of your house, show the card through the window or slide it under the door.
- **DO NOT ANSWER ANY QUESTIONS** from an immigration agent if they try to talk to you. You have the right to remain silent.
- **DO NOT SIGN ANYTHING** without first speaking to a lawyer. You have the right to speak with a lawyer.
- If you are outside of your house, **SHOW THIS CARD TO THE AGENT**. Ask the agent if you are free to leave and if they say you can, leave calmly.

I do not wish to speak with you, answer your questions, or sign or hand you any documents based on my 5th Amendment rights under the United States Constitution.

I do not give you permission to enter my home based on my 4th Amendment rights under the United States Constitution unless you have a warrant to enter, signed by a judge or magistrate with my name on it that you slide under the door.

I do not give you permission to search any of my belongings based on my 4th Amendment rights.

I choose to exercise my constitutional rights.

*These cards are available to citizens and non citizens alike.*

## Usted tiene derechos constitucionales:

- **NO ABRA LA PUERTA** si un agente de inmigración está tocando la puerta.
- **NO CONTESTE NINGUNA PREGUNTA** de un agente de inmigración si trata de hablar con usted. Usted tiene el derecho a guardar silencio.
- **NO FIRME NADA** sin antes hablar con un abogado. Usted tiene el derecho de hablar con un abogado.
- Si usted está fuera de su casa, pregúntele al agente si tiene la libertad de irse y si le dice que sí, váyase con tranquilidad.
- **ENTRÉGUELE ESTA TARJETA EL AGENTE**. Si usted está dentro de su casa, muestre la tarjeta por la ventana o pásela debajo de la puerta.

I do not wish to speak with you, answer your questions, or sign or hand you any documents based on my 5th Amendment rights under the United States Constitution.

I do not give you permission to enter my home based on my 4th Amendment rights under the United States Constitution unless you have a warrant to enter, signed by a judge or magistrate with my name on it that you slide under the door.

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## What can you do?

- ~call the ICIRR hotline if you see ICE (don't post on social media)
- ~familiarize yourself with these rights even if you are not a migrant
- ~distribute “know your rights” cards to anyone you think could be profiled
- ~if you are a migrant, you must carry identity and ideally, home bills showing your address that prove you have been in the US for at least two years (yes, that is a pain—sorry)
- ~tons of people are arrested accidentally—some have been detained, others have even been deported accidentally—this is not a fair or just system
- ~migration policy is foreign policy with some limited constitutional protections that diminish if there is an arrest—it's best to avoid arrest and to help others
- ~if they were really criminals, it's up to the police to investigate (not ICE's job)