

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

ICE Directive 15006.1: INTERPOL Red Notices and Wanted Person Diffusions

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1. **Purpose/Background.** This Directive provides guidance to U.S. Immigration and Customs Enforcement (ICE) personnel about Red Notices published by the International Criminal Police Organization (INTERPOL) and Wanted Person Diffusions circulated directly by an INTERPOL member country through its National Central Bureau (NCB).¹ ICE is committed to complying with the requirements of INTERPOL’s Constitution and Rules on the Processing of Data (RPD), concerning the use of Red Notices and Wanted Person Diffusions.

2. **Policy.** A Red Notice or Wanted Person Diffusion is not an international arrest warrant and conveys no legal authority to arrest, detain, or remove a person. Therefore, ICE personnel will not rely exclusively on Red Notices or Wanted Person Diffusions to justify enforcement actions or during immigration proceedings. If ICE personnel intend to rely on a Red Notice or a Wanted Person Diffusion to help inform whether an enforcement action should be taken or during immigration proceedings, they should do so sparingly, and only if the threshold criteria have been met, as outlined in this Directive.
 - 2.1. **Supervisory Approval and Underlying Documentation.** ICE personnel will obtain supervisory approval to act on or disclose a Red Notice or Wanted Person Diffusion. Once approved, unless there are indications that a Red Notice or Wanted Person Diffusion is potentially prohibited or non-compliant with INTERPOL rules, ICE personnel will contact the USNCB to formally request the associated underlying documentation prior to using the Red Notice or Wanted Person Diffusion to help inform an enforcement action or during immigration proceedings. Such documentation may include but need not be limited to copies of the foreign warrant, the indictment, charging documents, conviction documentation, and police reports. These types of documents may contain information that provides better or more complete evidence about the underlying offense than the Red Notice or Wanted Person Diffusion, and should be supplied to relevant parties (e.g., the noncitizen and their legal representative, or the immigration judge), as appropriate.

 - 2.2. **Use Authorization.** ICE personnel will contact the USNCB to request use authorization from INTERPOL or the issuing member country’s NCB. In some cases, it may also be in the agency’s best interest to consult with the U.S. Department of Justice (DOJ) before

¹ This Directive applies to the Office of the Principal Legal Advisor (OPLA) only to the extent it is not inconsistent with directives, policies, or formal guidance issued by the General Counsel of the Department of Homeland Security (DHS). DHS Delegation No. 0400.2, Delegation to the General Counsel (Sept. 14, 2004).

relying on a Red Notice or Wanted Person Diffusion (e.g., if there is also a pending extradition request or there are other indications that DOJ may have an active interest in the case).

- 2.3. Prohibited or Non-Compliant Red Notices and Wanted Person Diffusions.** INTERPOL's Rules on the Processing of Data establish specific conditions for the publication of Red Notices and circulation of Wanted Person Diffusions, as well as their suspension, withdrawal, or expiration. ICE personnel will familiarize themselves with the applicable rules to ensure they are not relying on Red Notices or Wanted Person Diffusions that do not meet INTERPOL's specific criteria. Additionally, some countries may be known or suspected of misusing INTERPOL's Notice and Diffusion system to target dissidents or political opposition figures. These countries may originate Red Notices and Wanted Person Diffusions that superficially appear valid, and they may be published by INTERPOL without the improper motive being uncovered during INTERPOL's review process. Likewise, even in countries where misuse or non-compliance is not known or suspected to be systematic, an underlying arrest warrant or judicial decision may be based on charges that are not legally sufficient or are fabricated. For example, Red Notices and Wanted Person Diffusions could stem from a country misusing its criminal laws to target human rights defenders, in instances in which a person's criminal record is based on unsubstantiated or fabricated evidence due to corruption, deficiencies or limitations of foreign law enforcement agencies, or the use of torture to obtain an invalid admission to a crime. ICE personnel will carefully review all reasonably available information, including standard law enforcement databases normally utilized by ICE, the underlying documentation, if received, U.S. Government reports, and publicly available information, for any indications that a Red Notice or Wanted Person Diffusion may be non-compliant with INTERPOL's rules.
- 3. Definitions.** The following definitions apply for purposes of this Directive only.
- 3.1. Field Responsible Official (FRO).** The highest-ranking official in any ICE field location. This includes Special Agents in Charge, Field Office Directors, ICE Attachés, Chief Counsel, and any other officials who have been designated, in writing by the Director.
- 3.2. Headquarters Responsible Officials (HROs).** Executive Associate Directors (EADs) of Enforcement and Removal Operations (ERO), Homeland Security Investigations (HSI), and Management and Administration (M&A); the Principal Legal Advisor; the Associate Director of the Office of Professional Responsibility (OPR); and the Assistant Directors, Officers, or equivalent positions who report directly to the Director, Deputy Director, or Chief of Staff.
- 3.3. ICE Personnel.** All ICE employees and contractors, regardless of duty station or locality.

- 3.4. Immigration Proceedings.** Proceedings before the Department of Justice’s Executive Office for Immigration Review.
- 3.5. National Central Bureau.** Any entity designated by a country to perform the liaison functions provided for under Article 32 of INTERPOL’s Constitution.
- 3.6. U.S. National Central Bureau.** The entity designated by the U.S. Government to perform the liaison functions provided for under Article 32 of INTERPOL’s Constitution.
- 3.7. Red Notice.** A Notice published by INTERPOL at the request of an NCB or an international entity with powers of investigation and prosecution in criminal matters in order to seek the location of a wanted person and their detention, arrest, or restriction of movement for the purpose of extradition, surrender, or similar lawful action.
- 3.8. Use Authorization.** Official permission from INTERPOL or a member country’s NCB to act on or to disclose a Red Notice or Wanted Person Diffusion for a specific purpose.
- 3.9. Wanted Person Diffusion.** A Diffusion circulated directly by an INTERPOL member country’s NCB to all or some other member countries in order to seek the arrest, detention, or restriction of movement of a convicted or accused person.
- 4. Responsibilities.**
- 4.1. HROs** are responsible for ensuring compliance with this Directive within their Directorate.
- 4.2. FROs, or their designee,** are responsible for:
- 1) Confirming all ICE personnel within their area of responsibility have completed the mandatory training requirement.
 - 2) Ensuring that Red Notices or Wanted Person Diffusions are only used in lieu of the underlying documents if necessary and that, if used, all threshold criteria have been met, as outlined in this Directive.
 - 3) Reviewing and approving requests for underlying documentation that originate within their area of responsibility.
 - 4) Ensuring all ICE personnel within their area of responsibility contact the USNCB pursuant to applicable procedures when seeking use authorization.
- 4.3. ICE Personnel** are responsible for:
- 1) Successfully completing the mandatory training requirement.

- 2) Conducting a preliminary review of a Red Notice or Wanted Person Diffusion for any indications of potential misuse or non-compliance with INTERPOL's rules.
- 3) Obtaining supervisory approval to use a Red Notice or Wanted Person Diffusion.
- 4) Requesting the underlying documentation associated with the Red Notice or Wanted Person Diffusion, as appropriate, and, if received, reviewing it for any indications of potential misuse or non-compliance with INTERPOL's rules, or for additional information that may provide better or more complete evidence about the underlying offense than the Red Notice or Wanted Person Diffusion.
- 5) Contacting the USNCB through applicable local procedures when seeking use authorization.
- 6) Properly documenting a person's arrest and articulating the associated immigration violations to make clear ICE personnel did not engage in an enforcement action based solely on the existence of a Red Notice or Wanted Person Diffusion. For example, notation on Form I-213, *Record of Deportable/Inadmissible Alien*, should indicate the person is a foreign fugitive and not explicitly reference the Red Notice or Wanted Person Diffusion.
- 7) Reviewing all reasonably available information, including INTERPOL guidance, applicable law enforcement systems, and U.S. Government reports that provide information about specific Red Notices or Wanted Person Diffusions.
- 8) Providing the person subject to a Red Notice or Wanted Person Diffusion with copies of any associated underlying documentation, as appropriate, and providing the person with a reasonable amount of time to contest the Red Notice or Wanted Person Diffusion, or its contents.²
- 9) Protecting all sensitive information related to a Red Notice or Wanted Person Diffusion, including but not limited to redacting information, as appropriate and in consultation with OPLA when necessary, to ensure information is not inappropriately shared.

4.4. OPLA:

- 1) Facilitates use authorization requests to the USNCB before a Red Notice or Wanted Person Diffusion can be used in immigration proceedings before the Executive Office for Immigration Review.

² Nothing in this Directive is intended to require ICE personnel to provide advance notification to a person who is the subject of a Red Notice or Wanted Person Diffusion if such notification would jeopardize or otherwise negatively impact the agency's law enforcement or prosecutorial responsibilities. What constitutes a "reasonable amount of time" is discretionary and may vary based on the facts of the case and the totality of the circumstances.

- 2) Coordinates with DOJ, as applicable, such as establishing whether there is an existing extradition request associated with a person who is the subject of a Red Notice or Wanted Person Diffusion.

5. Procedures/Requirements.

5.1. Using Red Notices or Wanted Person Diffusions During Enforcement Actions or Immigration Proceedings. ICE personnel will not rely on a Red Notice or Wanted Person Diffusion unless the following threshold criteria are met:

- 1) Verify Validity. The first thing ICE personnel must do upon learning about the existence of a Red Notice or Wanted Person Diffusion is contact the USNCB to verify that it remains active and has not been suspended, withdrawn, or expired. ICE personnel cannot use suspended, withdrawn, or expired Red Notices or Wanted Person Diffusions.
- 2) Conduct a Preliminary Review. ICE personnel must conduct a preliminary review of a Red Notice or Wanted Person Diffusion. The purpose of this review is to determine if information in the Red Notice or Wanted Person Diffusion, or information available via open sources, indicates that the Red Notice or Wanted Person Diffusion may be prohibited or non-compliant with INTERPOL rules. See Section 5.2 for more information.
- 3) Obtain Supervisory Approval. ICE personnel must obtain supervisory approval before seeking to use active and compliant Red Notices or Wanted Person Diffusions. Supervisory approval is required in advance because using Red Notices or Wanted Person Diffusions to inform enforcement actions can impact interagency equities and their use in immigration proceedings must be authorized by INTERPOL or the issuing member country's NCB.
- 4) Request Underlying Documentation. If there are no indications of misuse or non-compliance, and after obtaining supervisory approval, ICE personnel must request the underlying documentation associated with the Red Notice or Wanted Person Diffusion by contacting the USNCB as soon as practicable. While ICE cannot control whether the underlying documentation is received, or whether it is received in a timely manner, ICE personnel must nevertheless do their due diligence and request the underlying documentation once a supervisor has approved the use of an active Red Notice or Wanted Person Diffusion. If received, the underlying documentation must be reviewed to further inform whether the Red Notice or Wanted Person Diffusion should be used. Additionally, if the underlying documentation provides better or more complete evidence about the underlying offense than the Red Notice or Wanted Person Diffusion, ICE personnel should, generally, prioritize use of the underlying documentation over the Red Notice or Wanted Person Diffusion.

- 5) Request Use Authorization. ICE personnel cannot introduce or disclose Red Notices or Wanted Person Diffusions in immigration proceedings without first obtaining use authorization from INTERPOL or the issuing member country's NCB. ICE personnel must request use authorization via the USNCB. In extraordinary circumstances, (e.g., if there is a pending extradition request), it is generally in the best interest of the agency to coordinate with DOJ. Therefore, based on all available information, if ICE personnel intend to use a Red Notice or Wanted Person Diffusion during immigration proceedings, they must request use authorization as soon as practicable.
- 6) Providing the Wanted Person with Underlying Documentation. If use authorization has been granted and ICE personnel still intend to submit the Red Notice or Wanted Person Diffusion during immigration proceedings, then ICE personnel must provide the person with copies of the underlying documentation received from INTERPOL or the member country, as appropriate, as well as give the person a meaningful opportunity to respond or contest its contents.
- 7) Representations Regarding Red Notices and Wanted Person Diffusions. ICE personnel must remain cognizant of the nature of a Red Notice and a Wanted Person Diffusion. ICE personnel must not represent or imply that a Red Notice or Wanted Person Diffusion is a U.S. arrest warrant, conveys independent legal authority, or represents an independent judgment by INTERPOL concerning probable cause or the validity of the underlying criminal proceedings.

5.2. Prohibited or Non-Compliant Red Notices and Wanted Person Diffusions.

INTERPOL prohibits the use of Red Notices or Wanted Person Diffusions for the following offenses:

- 1) Offenses that in various countries raise controversial issues relating to behavioral or cultural norms;
- 2) Offenses relating to family/private matters; and
- 3) Offenses originating from a violation of laws or regulations of an administrative nature or deriving from private disputes, unless the criminal activity is aimed at facilitating a serious crime or is suspected of being connected to organized crime.

Additionally, some countries may be known or suspected of misusing the INTERPOL Notice and Diffusion process to target political dissidents, human rights defenders, journalists, etc. In some cases, such a Red Notice or Wanted Person Diffusion may support a person's claim for protection from removal.

If there are indications that a Red Notice or Wanted Person Diffusion does not comply with INTERPOL's rules or is not for a legitimate law enforcement purpose, ICE personnel should seek additional information to help inform whether the Red Notice or Diffusion might be prohibited or non-compliant. While it may not be possible for ICE

personnel to definitively conclude that a given Red Notice or Wanted Person Diffusion is prohibited or non-compliant based on readily available information, if there is doubt, ICE personnel should, at a minimum:

- 1) Confer with partner agencies, such as the USNCB, the U.S. Department of State, DOJ, and/or, if there is some indication that another country may have granted the subject of the Red Notice or Diffusion a protected status, the other country, as applicable;
- 2) Research the person and Red Notice or Wanted Person Diffusion, including the underlying offense(s), through available databases or publicly available sources to investigate whether there are indicia that the person may be the target of retaliation, harassment, or persecution; and
- 3) Seek additional context and information, as applicable. Such information may be available through publicly available sources or the USNCB. However, ICE personnel must exercise caution when seeking additional information. If there are already indications that the sought-after person is potentially the subject of a prohibited or non-compliant Red Notice or Wanted Person Diffusion, ICE personnel should generally not notify the requesting member country or request additional documentation from the member country directly, as doing so could alert the member country to the person's location and possibly facilitate an illegitimate and impermissible use of Red Notices and Wanted Person Diffusions.

If there is material evidence that a Red Notice or Wanted Person Diffusion is prohibited or is not for a legitimate law enforcement purpose, ICE personnel must not utilize it and should notify OPLA, the USNCB, U.S. Citizenship and Immigration Services, and/or other relevant agencies, as appropriate.

5.3. Training Requirement. It is critical that ICE personnel's use of Red Notices and Wanted Person Diffusions be consistent with applicable law, carefully documented, and reflective of sound enforcement decision-making. Accordingly, before ICE personnel may utilize a Red Notice or Wanted Person Diffusion, they must successfully complete the required training. This training must be completed initially upon the issuance of this Directive and on an annual basis thereafter.

6. Recordkeeping. ICE Directorates and Program Offices must track completion of the mandatory training requirement, the use of Red Notices and Wanted Person Diffusions, and maintain records of any official requests for underlying documentation or use authorization, as well as any official responses, including the lack of a response, from INTERPOL or an INTERPOL member country's NCB. All documents produced or provided pursuant to this Directive must be maintained in accordance with a National Archives and Records Administration approved retention schedule. If the records are not subject to a records schedule they must be maintained indefinitely by the agency. In the

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event the records are subject to a litigation hold, they may not be disposed of under a records schedule until further notification.

7. Authorities/References.

7.1. *Constitution of the International Criminal Police Organization-INTERPOL, [I/CONS/GA/1956 (2021)], or as updated.*

7.2. *INTERPOL's Rules on the Processing of Data, [III/IRPD/GA/2011 (2019)], or as updated.*

7.3. 22 U.S.C. § 263a (International Criminal Police Organization).

8. Attachments. None.

9. No Private Right. This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.



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Deputy Director and
Senior Official Performing the Duties of the Director
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6/1/23
DATE