

# Red Notices in Immigration Court: Tips for Immigration Bond Hearings

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Immigration lawyers increasingly encounter a familiar scenario at bond hearings in the United States: counsel for the Department of Homeland Security (“DHS”) produces a previously unknown INTERPOL [Red Notice](#)<sup>1</sup> and argues it proves the respondent’s dangerousness or flight risk. Often, DHS introduces the Red Notice with little warning, limited supporting documentation, and no meaningful opportunity for counsel for the respondent to investigate or respond to the underlying allegations and charges.

Counsel for the respondent should never treat the Red Notice as presumptively valid or dispositive. A Red Notice is neither a conviction nor an international arrest warrant. It is also not evidence of criminality, particularly where there are reasons to believe the government of the respondent’s home country requested it for persecutory reasons. It should never carry substantial weight at bond proceedings absent corroboration.

This article outlines practical strategies for immigration lawyers confronting surprise Red Notices introduced by DHS during bond proceedings.

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<sup>1</sup>Although this article refers primarily to INTERPOL Red Notices, the Department of Homeland Security may also rely on INTERPOL Blue Notices, which are similar to Red Notices, or on INTERPOL Wanted Person Diffusions (sometimes called ‘Red Diffusions’), which are less formal, country-specific alerts subject to fewer procedural safeguards. The concerns discussed here regarding reliability and due process apply equally to Blue Notices and diffusions. See INTERPOL, *About Notices*, <https://www.interpol.int/en/How-we-work/Notices/About-Notices>.

# 1. Do Not Concede the Red Notice Is Reliable or Legally Sufficient

The first mistake some counsel for respondents make is implicitly accepting the Red Notice as authenticated, reliable, or equivalent to a criminal warrant.

A [Red Notice](#) is fundamentally a request circulated through INTERPOL channels asking member countries to locate and provisionally arrest an individual pending extradition proceedings. INTERPOL is not an investigative body and does not adjudicate guilt, issue judicial warrants, or independently verify the underlying allegations submitted by member states.

That distinction matters.

When faced with Red Notice evidence presented by DHS in a bond hearing, counsel for the respondent should consider emphasizing that federal circuit courts repeatedly have recognized that an INTERPOL Red Notice alone is insufficient to establish probable cause or justify arrest absent additional corroboration. *See Gonzalez-Castillo v. Garland*, 47 F.4th 971 (9th Cir. 2022) (finding a Red Notice alone insufficient to establish probable cause for purposes of serious nonpolitical crime bar); *Barahona v. Garland*, 993 F.3d 1024 (8th Cir. 2021) (finding a Red Notice without additional evidence insufficient to satisfy “serious reasons for believing” standard); *Villalobos Sura v. Garland*, 8 F.4th 1161 (9th Cir. 2021) (declining to hold that Red Notice alone establishes probable cause); *Radiowala v. Attorney General*, 930 F.3d 577 (3d Cir. 2019) (giving “no weight” to Red Notice and noting DOJ position that Red Notices alone do not satisfy Fourth Amendment arrest requirements); *Hernandez Lara v. Barr*, 962 F.3d 45 (1st Cir. 2020) (recognizing DOJ position that Red Notice alone is insufficient basis for arrest under Fourth Amendment); *Kharis v. Sessions*, 2018 WL 5809432 (N.D. Cal. 2018) (criticizing DHS for failing to address substantial evidence undermining the reliability of the Red Notice and Russia’s “track record of abuse” of the Red Notice system).

That authority can be highly persuasive in immigration bond proceedings, where DHS often attempts to equate a Red Notice with proof of dangerousness or flight risk.

Counsel for the respondent should therefore avoid stipulating admissibility, reliability, or evidentiary weight.

## 2. Object to Last-Minute Disclosure and Request Continuance

If DHS presents the Red Notice shortly before or during the hearing, counsel for the respondent should immediately request continuance.

A continuance request should emphasize:

- lack of adequate notice;
- inability to investigate authenticity or procedural posture;
- inability to assess whether the notice remains active;
- inability to determine whether INTERPOL compliance concerns exist;
- inability to obtain certified translations or underlying charging documents;
- due process concerns associated with surprise evidence.

Importantly, many Red Notices contain sparse factual information. Some are tied to politically motivated prosecutions, civil-commercial disputes recast as criminal allegations, or proceedings initiated in jurisdictions with documented rule-of-law concerns.

Counsel for the respondent should argue that basic fairness requires an opportunity to evaluate whether the notice is current, whether the allegations are corroborated, whether the requesting country has a history of INTERPOL abuse, and whether there is a basis to challenge the data before INTERPOL.

## 3. Frame the Red Notice as an Uncorroborated Allegation – Not Proof

At the continued bond hearing (or the initial one if the judge refused to continue the hearing), counsel for respondents should keep the immigration judge focused on a basic point: Red Notice is not a criminal conviction or a judicial arrest warrant. Rather, it is a request circulated through INTERPOL channels based on information submitted by a member country, and it can be challenged through INTERPOL's own review process.

That distinction is critical because counsel for DHS will often present the Red Notice itself as proof of the respondent's dangerousness or flight risk.

Some Red Notices may state that the requested individual (i.e. the respondent) is “Dangerous” or a “Flight Risk.” DHS may use these statements to support their request to deny bond. These statements are no more reliable than the Red Notice as a whole.

Counsel for respondents should remind the immigration judge that:

- The allegations underlying the Red Notice may be entirely untested;
- No U.S. court has found probable cause on the charges underlying the Red Notice;
- The respondent has appeared for his or her immigration proceedings despite the Red Notice;
- The Red Notice itself is subject to challenge, correction, suspension, or deletion through INTERPOL’s internal procedures; and
- The purpose of a Red Notice is to prevent an individual from fleeing across international borders. It is perverse to assert that a Red Notice increases flight risk: Red Notices reduce flight risk.

An effective approach is simply to educate the immigration judge about the limited nature of the notice and why caution is warranted. For example, counsel for respondents can inform the immigration Judge that:

“The Red Notice was issued at the request of [X] country and reflects allegations advanced by a foreign government, not findings made by a U.S. court or an independent adjudicative body. Although it conducts limited review of requests for compliance with its rules, INTERPOL does not adjudicate the merits of a case, assess guilt or innocence, or independently verify the underlying allegations. Nor does the issuance of a Red Notice itself constitute a determination that the allegations are true. Rather, a Red Notice serves as a mechanism for communicating information provided by a member country and requesting international law-enforcement cooperation. At minimum, the Court should hesitate before assigning any weight to uncorroborated foreign accusations that have not been independently vetted.”

That framing helps undermine DHS’s attempt to treat the Red Notice as conclusive proof of the validity and legitimacy of the underlying charges while maintaining credibility with the immigration judge.

Counsel for respondents may also consider presenting testimony or a declaration from an experienced INTERPOL defense attorney or INTERPOL expert witness explaining:

- The limited function of a Red Notice;
- The distinction between a Red Notice and a judicial warrant;
- The fact that INTERPOL does not adjudicate guilt;
- That Red Notices are based on unilateral member-country submissions; and
- That Red Notices may be challenged, corrected, suspended, or deleted under INTERPOL's internal procedures.

## 4. Engage an INTERPOL Defense Lawyer Immediately

Challenging the validity of a Red Notice before INTERPOL is a complex process that requires the specialized expertise of an attorney with experience practicing before INTERPOL. Counsel for respondents should consider seeking the advice of, or associating with, an experienced INTERPOL defense attorney as quickly as possible after the Red Notice issue arises. Counsel for respondents should not assume that a Red Notice or diffusion is immune from challenge or necessarily compliant with INTERPOL's own rules.

An experienced INTERPOL defense attorney can help evaluate whether there is a basis to challenge the Red Notice or diffusion before INTERPOL's Commission for the Control of INTERPOL's Files ("CCF").<sup>2</sup> (For more information about the CCF process, see [How to Challenge an INTERPOL Red Notice](#).)

Potential bases to challenge a Red Notice or diffusion may include:

- Lack of specific factual detail to support the listed charge
- Lack of an underlying arrest warrant or judicial document to corroborate the allegations
- Undue political influence

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<sup>2</sup> The Commission for the Control of INTERPOL's Files ("CCF") is an independent body within INTERPOL responsible for ensuring that data processed through INTERPOL's systems complies with INTERPOL's Constitution and internal rules. The CCF handles requests from individuals seeking access to, correction of, or deletion of data held in INTERPOL's files, and generally meets three to four times per year to review applications and render decisions, though it can render decisions in routine cases at any point. See INTERPOL, *About the CCF*, <https://www.interpol.int/en/Who-we-are/Commission-for-the-Control-of-INTERPOL-s-Files-CCF/About-the-CCF>.

- The notice or diffusion is predominantly political, military, religious, or racial in nature
- The underlying prosecution is an arbitrary criminalization of a private or commercial dispute

Where appropriate, an experienced INTERPOL defense attorney may be able to file a request to delete the Red Notice and obtain confirmation that the request is under review. Counsel for respondents should consider bringing proof of filing, the notice of admissibility (if received), or a sworn declaration from the INTERPOL defense attorney to the next hearing to demonstrate to the immigration judge that the Red Notice is actively being challenged through INTERPOL's internal procedures.

This can be particularly useful where the immigration judge appears to assume that a Red Notice reflects a neutral international adjudication rather than an uncorroborated foreign accusation.

Counsel for respondents should be careful though not to overstate the significance of a pending challenge to a Red Notice to the CCF. The filing, and even a positive decision from the CCF to delete the Red Notice, does not by itself invalidate the underlying charges. However, a decision by the CCF to delete a Red Notice demonstrates that the Red Notice is not a conclusive or self-proving indicator of criminality, that the Notice did not comply with INTERPOL's procedures, and that legitimate questions exist regarding the reliability of the charges and/or the political motivation of the charges and Red Notice.

## 5. Be Prepared for the Immigration Judge to Focus on the Underlying Charges

Even if counsel for the respondent successfully limits the weight given to the Red Notice itself, many immigration judges will still focus on the underlying foreign charges or allegations, especially if DHS has submitted additional underlying documentation with the Red Notice. Counsel for respondents should therefore be prepared to address the broader context of the case, including any weaknesses in the foreign prosecution, the age of the allegations, lack of any conviction, procedural irregularities, political motivation concerns, and the respondent's history of compliance, rehabilitation, family ties, and community support.

The goal is to keep the immigration judge focused on the actual bond inquiry, rather than allowing uncorroborated foreign allegations to become dispositive of the respondent's dangerousness or flight risk.

## 6. If You Obtain a Favorable Decision from INTERPOL, Consider Its Impact Carefully

If counsel for the respondent obtains a favorable INTERPOL outcome—such as provisional blocking (a temporary suspension of access to the data across INTERPOL systems while a challenge is reviewed) or permanent deletion of the Red Notice—that evidence should be submitted to the immigration court as updated evidence.

However, before presenting it, counsel for the respondent should consider consulting with an experienced INTERPOL defense attorney or expert witness (if one is not already involved) on how best to explain the result to the immigration judge in the most effective terms. Specifically, consideration should be given to what the favorable decision does and does not mean in the context of the specific case.

These developments can be relevant not only to bond proceedings, but also in the broader removal case, depending on how DHS is framing the underlying criminal charges.

## Conclusion

DHS presenting a Red Notice in bond proceedings can often feel like a gut punch, and as if no possible relief can be obtained. But that is far from the truth. A Red Notice is an untested information-sharing tool, not a conviction or arrest warrant, and it should not be treated as conclusive evidence of the respondent's danger or flight risk in bond proceedings.

With the right explanation and framing—and, in many cases, with the assistance of counsel experienced in both immigration law and INTERPOL defense—counsel for respondents can preserve bond eligibility despite the presence of a Red Notice of diffusion. These issues can also have implications beyond bond, affecting how the underlying allegations are viewed later in the respondent's broader removal proceedings.

*This is part one of a multi-part series providing tips for handling Red Notices in U.S. immigration courts. Follow along for more.*