



Understanding INTERPOL's Role in International Child Abduction

Speakers:

Sandra Grossman, Managing Partner, Grossman Young & Hammond

Charlie Magri, Founder, Otherside

Presented to the New York State Bar Association
September 26, 2024

Meet the Speakers



Sandra Grossman is a founding partner of Grossman Young & Hammond, located in the greater Washington D.C. area. She has developed a unique practice representing and supporting clients before INTERPOL. In 2019, Sandra testified before a bi-partisan Congressional committee (the “Helsinki Commission”) as a national authority on how to curb abuse of INTERPOL by autocratic nations. She also has significant expertise in representing clients before the U.S. consulates worldwide, both in immigrant and non-immigrant visa applications, administrative processing, and waivers of inadmissibility.

Washingtonian Magazine has repeatedly recognized Sandra as one of “Washington’s Top Lawyers”. In 2022, the American Immigration Lawyers Association (AILA) awarded Sandra the Edith Lowenstein Memorial Award for Excellence in Advancing the Practice of Immigration Law. Sandra presents and publishes frequently on the topic of immigration law and INTERPOL matters, appearing on CNN, CNN Español, Fox News, the BBC, and C-Span.



Charlie Magri is a seasoned lawyer specializing in INTERPOL-related legal matters. From 2017 to 2023, Charlie served as a Legal Officer at the Secretariat to the Commission for the Control of INTERPOL’s Files (CCF). During his time at the CCF, he processed requests for the deletion of data from INTERPOL’s files, involving thorough reviews and the preparation of materials for the Commission’s deliberation. His work, guided by INTERPOL’s regulations, human rights principles, and international legal standards, significantly contributed to his in-depth knowledge of the CCF’s jurisprudence, equipping him with specialized insight essential for handling complex INTERPOL legal challenges.

Now affiliated with the Marseille Bar, Charlie brings his expertise to “Otherside,” his law firm focused on challenging INTERPOL notices and defending individuals’ rights. His unique insights into INTERPOL’s decision-making processes make him a valuable asset for clients facing international legal challenges.

Agenda

- Introduction to INTERPOL
- Legal Framework
- Issuance of a Red Notice for the Abducting Parent
- Issuance of Yellow Notice to Help Locate Missing Children
- Challenging Red and Yellow Notices in Child Abduction Cases
- Practical Tips for Practitioners for Submitting Requests to the CCF
- Q&A



Introduction to INTERPOL



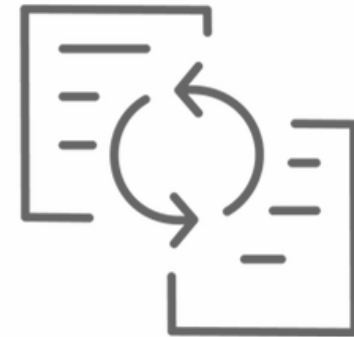
Overview

- Est. 1923
- 196 Member States
- NOT a police force
- Manages a range of databases for information sharing



INTERPOL's General Role & Limitations

- To promote international police cooperation via data exchange
- No arrest powers
- No investigative capabilities
- No affiliation with the UN



Organizational Structure

Key Bodies

- General Assembly
- Executive Committee
- General Secretariat
- Commission for the Control of INTERPOL's Files (CCF)

The Role of National Central Bureaus (NCBs) and Their Interaction with INTERPOL

- Each member country has an NCB
- Main PoC between INTERPOL and local law enforcement
- Request issuance of notices and alerts, i.e. Red Notices

Legal Framework



INTERPOL's Constitution

Article 2

- Adherence to Universal Declaration of Human Rights

Article 3

- Ensures INTERPOL's neutrality



INTERPOL's Rules on the Processing of Data (RPD)

- Est. framework for collection, storage, and sharing of data.
- Ensures lawful, accurate, and secure data processing.



CCF Statute

- Ensures data processed through INTERPOL's channels adheres to the organization's rules.
- Examines and decides on requests for access, correction, and/or deletion of data within the INTERPOL Information System

Issuance of a Red Notice for the Abducting Parent



What is a Red Notice?

- Purpose of a Red Notice
 - Alert worldwide law enforcement of wanted individuals
 - May be used for a parent who has unlawfully taken child or kept child in a third country
- Myths about Red Notices
 - NOT an arrest warrant; Does not imply guilt
- Public Availability
 - Only 10% are published



Who Can Request a Red Notice and Who Has the Authority to Issue It?

- Requesting a Red Notice
 - Member countries via NCB, with an arrest warrant or court order
- Issuance of a Red Notice
 - Reviewed and authorized by INTERPOL General Secretariat for rule compliance, esp. Art. III

What are the Minimum Criteria for Issuing a Red Notice?

Article 83 of Rules on Processing of Data (RPD)

- Valid arrest warrant or court decision
- No “minor offenses”
 - Person must be wanted for an offense that carries a penalty of at least two years of imprisonment
 - If already convicted, they must have been sentenced to at least six months of imprisonment or have at least six months remaining to serve
- Accurate and precise information

Are There Specific Conditions That Must Be Met in Cases of Parental Child Abduction?

- **Parental child abduction:** on the **non-exhaustive** list of offenses that **typically do not** qualify for Red Notices.
- **Cannot be issued if:**
 - Conflicting custody decisions in two countries, **and:**
 - **Both parents** participated in legal proceedings in both countries, **or:**
 - **Hague Convention proceedings** are ongoing or concluded, with custody was granted to the parent targeted by the Red Notice.

What is the Impact of a Red Notice?

- Legal Impact
 - Arrest & Extradition, Border Control, Passport & Visa Issues
- Social and Economic Consequences
 - Employment, Financial, Reputation



ISSUANCE OF A YELLOW NOTICE TO HELP LOCATE MISSING CHILDREN



What is a Yellow Notice?

- International alert to locate missing persons, particularly children, who may be victims of parental abductions, criminal abductions, or unexplained disappearances
- Identify individuals unable to identify themselves
- Some publicly available/Some not: Dec. 2023: 16,394 in circulation, 9,870 public

Under What Circumstances Can a Yellow Notice Be Issued?

Article 90 of RPD

- Police Report
- Unknown Whereabouts
- Privacy Considerations
- Sufficient Identifiers
- Cross-Border Concerns

How Can Clients Request a Yellow Notice if Their Child Has Been Abducted?

1. Report to Local Law Enforcement
2. Law Enforcement Requests the Yellow Notice
3. Coordination with INTERPOL

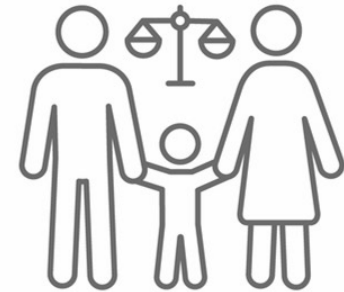


What Are the Implications and Effects of a Yellow Notice

- Circulated across member countries
- Flags missing person in border control
- Child's movement can be restricted

What Procedures Are Followed if the Child is Identified at a Border Crossing?

1. Identity Verification
2. Notification
3. Child Safety
4. Custody and Legal Review
5. Repatriation



Once the Child is Returned to the Requesting Parent and the Case is Resolved:

- NCB that requested the Yellow Notice informs INTERPOL and cancels the notice

CHALLENGING RED AND YELLOW NOTICES IN PARENTAL CHILD ABDUCTION CASES



What is the Role of the Commission for the Control of INTERPOL's Files (CCF)?

- Independence of the CCF
- Membership & Structure
- Limits of the CCF's Competence
- Complaint Submission and Review Processes
- Binding Decisions

What is the Difference Between Requests for Access to Information and Requests for Deletion of Notices?

- Requests for Access to Information
 - Approx 4 mo. for response
- Requests for Deletion
 - Approx. 9 mo. for response, delays expected



What is the Relevant Jurisprudence of the Commission in Cases Involving Parental Child Abduction?

- CCF's Jurisprudence on Red Notices Involving Parental Child Abduction
 - Non-compliant if:
 - Conflicting custody decisions in two countries
 - Both parents participated in legal proceedings, or
 - Custody dispute resolved via Hague Convention proceedings
- CCF Jurisprudence on Yellow Notices in Parental Child Abduction Cases
 - If child's location is identified, notice can be deleted.

Outcomes When Data Are Found to Be Non-Compliant with INTERPOL's Rules: Deletion of Data

When the CCF finds a Red or Yellow Notice non-compliant with INTERPOL's rules, the data is deleted. The process is:

1. Deletion of Data by the General Secretariat
2. Notification to NCBs and Applicant

Practical Tips for Practitioners: Best Practices for Submitting Requests to the CCF



Best Practices for Submitting Requests to the CCF

- Tailor Submissions to the CCF's Mandate
 - CCF will not evaluate the merits or resolve legal disputes
 - Focus on rule violations: Compliance with RPD, Article 2 & Article 3 of INTERPOL's Constitution violations
- Combine Legal Arguments with Solid Supporting Documents
- Monitor Timeframes

Thank you!

Sandra Grossman
Co-Managing Partner, Grossman Young & Hammond
sgrossman@grossmanyouth.com

Charlie Magri
Founder, Otherside
*Of Counsel to Grossman Young & Hammond
cm@otherside.law



Questions?

