

STANDARD 5.4

TELEPHONE ACCESS

I. POLICY

Facilities shall provide detainees with reasonable and equitable access to telephones.

II. STANDARDS AND PROCEDURES

A. Detainee Access to Telephones

The facility shall provide detainees with reasonable and equitable access to telephones during established facility waking hours, limited only by the restrictions below.

Each facility shall provide detainees with access to reasonably priced telephone services. Contracts for such services shall comply with all applicable state and federal regulations and be based on rates and surcharges comparable to those charged to the general public.

B. Detainee Notification

The facility shall provide telephone access rules in the facility handbook and shall post these rules where detainees may easily see them.

C. Number of Telephones

To ensure sufficient access, the facility shall provide at least one operable telephone for every 25 detainees.

D. Telephone Maintenance

The facility shall maintain detainee telephones in proper working order. Appropriate facility staff shall inspect the telephones daily, promptly report out-of-order telephones to the repair service, and ensure required repairs are completed quickly.

E. Direct Calls and Free Calls

Even if telephone service is limited to collect calls, the facility shall permit detainees to make direct, free calls to the local immigration court and the Board of Immigration Appeals; federal and state courts where the detainee is or may become involved in a legal proceeding; consular officials; legal service providers, in pursuit of legal representation or to engage in consultation concerning his or her expedited removal case; legal service providers or organizations listed on the ICE/ERO free legal service provider list; government offices, to obtain documents relevant to his or her immigration case; DHS

OIG; ICE/OPR Joint Intake Center (JIC); the ICE/ERO DRIL; UNHCR; family or friends to address a personal or family emergency, or when the detainee can otherwise demonstrate a compelling need (to be interpreted liberally). If the limitations of its existing phone system will initially preclude the facility from meeting these requirements, the facility must report this to ICE/ERO. ICE/ERO will respond by providing some means of access, e.g., cell phones into which facility staff can pre-program authorized numbers (in the above categories) with all other numbers blocked. These phones will be maintained by ICE/ERO liaison officers or local officials and calls must be provided in an environment where the detainee's conversation may not be readily overheard.

ICE/ERO headquarters shall maintain and provide Field Offices a list of telephone numbers for current free legal service providers, consulates and embassies, and the Department of Homeland Security's (DHS) Office of the Inspector General (OIG), and the ICE/ERO DRIL. All Field Offices are responsible for ensuring facilities which house ICE detainees under their jurisdiction are provided with current pro bono legal service information.

ICE/ERO can also provide access to its detainee telephone service provider which enables detainees to make free calls to all numbers on the official pro bono legal services providers list, consulates and embassies, courts, DHS hotlines, and other entities.

Staff will allow detainees to make direct, free calls as described above as soon as possible after the request, factoring in the urgency expressed by the detainee. Generally, access will be granted within eight (facility-established) waking hours of the detainee's request, excluding the hours between lights-out and morning resumption of scheduled activities. The detainee shall always be granted access within 24 hours of his or her request.

Incidents of delays extending beyond eight (waking) hours must be documented and reported to ICE/ERO.

Indigent detainees may request a call to immediate family or others in personal or family emergencies or on an as-needed basis. Ordinarily, a detainee is considered "indigent" if he or she has less than \$15.00 in his or her account for ten days. The facility shall make a timely effort to determine indigence.

The facility shall enable all detainees to make calls to the ICE/ERO-provided list of pro bono legal service providers and consulates at no charge to the detainee or the receiving party. If the facility requires detainees to complete a request form to make direct or free calls, assistance must be provided for illiterate or limited English proficient detainees, and to detainees with disabilities.

Facilities will make efforts where necessary to allow detainees to make legal calls and to navigate decision trees and/or leave messages when those calls are answered by an automated system.

F. Telephone Usage Restrictions

The facility shall not restrict the number of calls a detainee places to his or her legal representatives or to obtain representation. Similarly, the facility shall not limit the duration of such calls by rule or automatic cut-off, unless necessary for security purposes or to maintain orderly and fair access to telephones. If time limits are necessary for such calls, they shall be no shorter than 20 minutes, and the detainee shall be allowed to continue the call, if desired, at the first available opportunity.

The facility may place reasonable restrictions on the hours, frequency, and duration of the other direct and/or free calls listed above.

G. Telephone Privileges in Special Management Unit

Staff shall permit detainees in the Special Management Unit for disciplinary reasons to make direct and/or free calls as described above, except under compelling security conditions. These conditions shall be documented.

Staff shall permit detainees in the Special Management Unit for administrative reasons (e.g., protective custody, suicide risk) to have telephone access similar to detainees in the general population, but in a manner consistent with the special security and safety requirements of detainees in these units.

H. Inter-facility Telephone Calls

Upon a detainee's request, the facility shall make special arrangements permitting the detainee to speak by telephone with an immediate family member detained in another facility. Immediate family members include the detainee's spouse, co-parent, mother, father, stepparents, foster parents, brothers and sisters, and children. Reasonable limitations may be placed on the frequency and duration of such calls.

The facility shall liberally grant requests for inter-facility family calls to discuss legal matters. For such calls, the detainee's conversations shall be afforded privacy to the extent possible, while maintaining adequate security.

I. Incoming Calls

The facility shall take and deliver telephone messages to detainees as promptly as possible. When facility staff receives an emergency telephone call for a detainee, the caller's name and telephone number will be obtained and given to the detainee as soon as possible. The detainee shall be permitted to return the emergency call as soon as reasonably possible within the constraints of security and safety—normally within eight waking hours of the incoming call, as described above. The facility shall enable indigent detainees to make a free return emergency call.

J. Privacy for Telephone Calls on Legal Matters

The facility shall ensure privacy for detainees' telephone calls regarding legal matters. For this purpose, the facility shall provide a reasonable number of telephones on which detainees can make such calls without being overheard by officers, other staff, or other detainees.

Facility staff shall not electronically monitor detainee telephone calls related to legal matters, absent a court order.

The facility shall inform detainees to contact a facility staff member if they have difficulty making a confidential call relating to a legal matter. If notified of such a difficulty, facility staff shall take measures to ensure that the call can be made confidentially. Privacy may be provided in a number of ways, including:

1. Telephones with privacy panels;
2. Placing telephones where conversations may not be readily overheard by other detainees or facility staff; or
3. Allowing detainees to use an office telephone to make confidential calls regarding their legal proceedings.

K. Monitoring of Detainee Telephone Calls

The facility shall have a written policy on the monitoring of detainee telephone calls. If telephone calls are monitored, the facility shall notify detainees of this in a language or manner that they understand and in the facility handbook provided upon admission. The facility shall also place a notice at each monitored telephone stating:

1. That detainee calls are subject to monitoring; and
2. The procedure for obtaining an unmonitored call to a court, legal representative, or for the purposes of obtaining legal representation.

A detainee's call to a court, a legal representative, or for the purposes of obtaining legal representation will not be aurally monitored absent a court order. The facility retains the discretion to monitor other calls for security purposes.

L. Telephone Access for Detainees with Disabilities

Consistent with Standard 4.7 "Disability Identification, Assessment, and Accommodation," the facility shall provide equal access to telephone services for individuals with disabilities. Such telephone services may include TTY devices, Accessible Telephones (telephones equipped with volume control and telephones that are hearing-aid

compatible for detainees who are deaf or hard of hearing), or videophones and video relay service or video remote interpretation service. Detainees with disabilities shall be provided access to accessible telephone services on the same terms as detainees without disabilities are provided access to telephones. Except to the extent that there are time limitations, detainees using accessible telephone services shall be granted additional time, consistent with safety and security concerns.

If accessible telephone services are not available in the same location as telephones used by detainees without disabilities, detainees with disabilities shall be allotted additional time to walk to and from the accessible telephone services location. Consistent with the order and safety of the facility, the facility shall ensure that the privacy of telephone calls by detainees using accessible telephone services is the same as other detainees using telephones.