

INS DETENTION STANDARD

TELEPHONE ACCESS

I. POLICY

Facilities holding INS detainees shall permit them to have reasonable and equitable access to telephones.

II. APPLICABILITY

The standards provided in this Detention Standard shall apply to the following facilities housing INS detainees:

1. Service Processing Centers (SPCs);
2. Contract Detention Facilities (CDFs); and
3. State or local government facilities used by INS through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours; referred to below as "IGSA facilities."

Within the document additional implementing procedures are identified for SPCs and CDFs. Those procedures appear in italics. IGSA facilities may find such procedures useful as guidelines. IGSAs may adopt, adapt or establish alternatives to, the procedures specified for SPCs/CDFs, provided they meet or exceed the objective represented by each standard.

See the separate "Definitions" Standard for the meaning of certain terms used in this document.

III. 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.

B. Detainee Notification

As described in the "General Provisions" standard, the facility shall provide telephone access rules in writing to each detainee upon admittance, and also 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 telephone for detainee use for every 25 detainees held.

SPC/CDF telephones will permit outgoing calls only.

D. Telephone Maintenance

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

E. Direct Calls and Free Calls

Even if telephone service is generally limited to collect calls, the facility shall permit the detainee to make direct calls:

1. to the local immigration court and the Board of Immigration Appeals;
2. to Federal and State courts where the detainee is or may become involved in a legal proceeding;
3. to consular officials;
4. to legal service providers, in pursuit of legal representation or to engage in consultation concerning his/her expedited removal case;
5. to a government office, to obtain documents relevant to his/her immigration case; and
6. in 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 OIC must report this to INS. INS 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 on-site INS liaison officers or local officials, and must be provided in an environment that meets privacy standards.

Staff will allow detainees to make such calls 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 will always be granted access within 24 hours of his/her request.

Incidents of delays extending beyond eight (waking) hours must be documented and reported to the INS.

The facility shall not require indigent detainees to pay for the types of calls listed above if they are local calls, nor for non-local calls if there is a compelling need. The facility shall enable all detainees to make calls to the INS-provided list of free 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, it must assist them as needed, especially for illiterate or non-English speaking detainees.

In SPCs/CDFs, INS has required its telephone service provider to program the telephone system to permit detainees free calls to numbers on the official pro bono legal representation list and to consulates, and to permit detainees to make direct calls by use of debit cards. INS encourages and will work with IGSA facilities toward adopting similar procedures, and share INS' knowledge and experience in this area.

F. Telephone Usage Restrictions

The facility shall not restrict the number of calls a detainee places to his/her legal representatives, nor 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, but these must not unduly limit a detainee attempting to obtain legal representation.

The facility may restrict the number and duration of other types of telephone calls for the following reasons only:

1. availability (i.e., the usage demands of other detainees);
2. orderly operation of the facility (e.g., scheduled detainee movements, court schedules, meals, counts, etc.); and
3. emergencies (e.g., escapes, escape attempts, disturbances, fires, power outages, etc.).

Telephone privileges may be suspended entirely during an emergency, but only with the authorization of the OIC or his/her designee, and only for the briefest period necessary under the circumstances.

The OIC will establish and oversee local institutional rules for the equitable allocation of telephone time. When required by detainee telephone-usage demands, such measures may include, but are not limited to, reasonable limitations on the duration and the number of calls per detainee, the use of predetermined time-blocks, and advance sign-up procedures.

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 other than disciplinary 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, mother, father, stepparents, foster parents, brothers and sisters, and natural or adopted 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 conversation 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. The facility shall enable indigent detainees to make a free return emergency call.

In SPCs/CDFs, messages shall be delivered to detainees no less than three times a day.

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 on their legal matters, absent a court order.

The facility shall inform detainees to contact an officer if they have difficulty making a confidential call relating to a legal proceeding. If notified of such a difficulty, the officer 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 (side partitions) that extend at least 18 inches to prevent conversations from being overheard;

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 in the detainee handbook or equivalent provided upon admission. It 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 OIC retains the discretion to have other calls monitored for security purposes.

IV. AMERICAN CORRECTIONAL ASSOCIATION STANDARDS REFERENCED:

American Correctional Association 3rd Edition, Standards for Adult Detention
Facilities: 3-ALDF-5D-09, 3D-21, 3D-22, 3D-23


Approval of Standard



Michael D. Cronin
Acting Executive Associate Commissioner
Office of Programs

SEP 20 2000

Date



Michael A. Pearson
Executive Associate Commissioner
Office of Field Operations

SEP 20 2000

Date

**U.S. Immigration and Naturalization Service
NATIONAL DETENTION STANDARDS
MONITORING INSTRUMENT**

Policy: All facilities housing INS detainees will permit detainees' reasonable and equitable access to telephones.

DETAINEE TELEPHONE ACCESS			
Components	Yes	No	Remarks
1. Are all detainees allowed access to telephones during established facility waking hours?			
2. Upon admittance, are detainees made aware of the facility's telephone access policy?			
3. Is notification of this policy in the detainee handbook?			
4. Are the telephone access rules posted in each housing area?			
5. Does the facility make a reasonable effort to provide key information to detainees in languages spoken by any significant portion of the facility's population?			
6. Are telephones provided at a ratio of at least one telephone per 25 detainees in the facility population?			
7. Are telephones inspected regularly (daily in SPCs/CDFs), by appropriate facility staff, to ensure that they are in good working order?			
8. Does the facility administration promptly report out-of-order telephones to the facility's telephone service provider?			
9. Does the facility administration monitor repair progress and take appropriate measures to ensure that the required repairs are begun and completed within a reasonable time?			
10. Are detainees afforded a reasonable degree of privacy for legal phone calls? *How?			

DETAINEE TELEPHONE ACCESS			
Components	Yes	No	Remarks
11. When a detainee is having trouble placing a confidential call, is there a procedure in place for an officer to assist them?			
12. Does the facility provide the detainees with the ability to make non-collect (special access) calls?			
13. Is this ability provided by having the telephone company program special access call numbers into the collect-call telephones so that detainees may dial these numbers directly?			
14. Is this ability provided by access to a telephone that will allow such calls to be made at a detainee's expense?			
15. Is this ability provided by access to a telephone that permits calls at no expense to the detainee or the receiving party?			
16. If a facility is unable to fully meet this requirement initially because of limitations of its telephone service, will INS make interim arrangements to provide required access? a. Are cell phones available? b. Pre-programmed with the appropriate numbers? c. Other numbers blocked.			
17. Are cell phones maintained on site by INS liaison or by the local officials? If so a. Are the detainees permitted to use the cell phones within 8 hours or a max of 24 hours of the request? b. In an environment that meets privacy standards?			
18. Is the detainee required to request this access by using a Detainee Request Form?			
19. Does the on-duty supervisor adjudicate the request?			
20. Is the request form placed into the detainee's detention file?			
21. When granted, is access routinely provided within twenty-four hours?			

DETAINEE TELEPHONE ACCESS			
Components	Yes	No	Remarks
22. If restrictions are placed on these calls, do they unduly limit the alien in attempting to obtain legal services?			
23. Are there any restrictions on time or number of calls to legal representation? If yes what?			
24. Are special arrangements made to allow detainees to speak by telephone with an immediate family member detained in another SPC or CDF?			
25. Is the use of general access phones restricted?			
26. Does the restriction(s) fall within one of the categories in paragraph VIII section G?			
27. Does the facility have a system for taking and delivering detainee telephone messages?			
28. Is the message system structured to ensure detainee messages are delivered to the detainees no less than three times a day?			
29. Are emergency phone call messages immediately given to detainees?			
30. Are detainees allowed to return emergency phone calls as soon as possible?			
31. Are detainees in disciplinary segregation allowed phone calls relating to the detainee's immigration case or other legal matters, including consultation calls?			
32. Are detainees in disciplinary segregation allowed phone calls to consular/embassy officials?			
33. Are detainees in disciplinary segregation allowed phone calls for family emergencies			
34. Are detainees in administrative segregation and protective custody afforded the same telephoning privileges as those in general population?			
35. Are detainee phone calls monitored?			
36. Is notification posted by detainee telephones that phone calls made by the			

DETAINEE TELEPHONE ACCESS

Components	Yes	No	Remarks
detainees may be monitored?			
37. Does the notification contain the procedure for requesting an unmonitored phone call?			

**U.S. Immigration and Naturalization Service
NATIONAL DETENTION STANDARDS
MONITORING INSTRUMENT**

DETAINEE TELEPHONE ACCESS

Verification Sources:

The following may serve as sources of information for auditors verifying the facility's compliance with this detention standard:

SOURCE	TIME	DATE	LOCATION
A. Review of Detainee Handbook			
B. Review of Phone Maintenance Log			
C. Review of Phone Inspection Log			
D. Review of Facility Policy and Procedures for Detainee Telephone Access			
E. Inspection of Telephone Areas			
F. Inspection of Detainee Housing Units			
G. Detainee and Staff Interviews			

Facilities must complete the attached Plan of Action for bringing operations into compliance. For each element found out of compliance, the plan of action will specify remedial action and the estimated timetable for compliance.

Remarks: *(Record significant facts, observations, alternate source used for verification, etc.)*

Auditor's Signature

Date