

DECLARATION OF DR. DORA SCHIRO

I, Dora Schiro, declare as follows:

I. Background and Qualifications

1. I am a career public servant who has served as an executive-level administrator, policy maker, and homeland security advisor. I was appointed to lead a number of city and state agencies and a federal office.
2. I was the Commissioner of the Connecticut Department of Emergency Services and Public Protection consisting of six state agencies including the Connecticut State Police and Homeland Security and Emergency Management, from 2014 through 2018. I served concurrently as Connecticut's Homeland Security Advisor from 2016 through 2018. My Department of Homeland Security (DHS) security clearance was Top Secret. During my tenure as Director, we grappled with Ebola and through our Division of Emergency Management and Homeland Security, developed a protocol specifically for the state's first responders. Additionally, as the state's Homeland Security Advisor, I interfaced with many of the DHS offices and agencies on an ongoing basis including the Federal Emergency Management Agency with which we had an active and ongoing partnership

1989 to 1993. During an earlier appointment to the NYC Department of Correction as Assistant Commissioner for Programs Services from 1985 to 1989, I was responsible for most the mandated activities including the operation of all the jails' law libraries.

5. I was the Director of two state correctional systems: the Missouri Department of Corrections, which encompasses state prisons, probation, and parole, from 1993 to 2001; and the Arizona Department of Corrections, which encompasses state prisons and parole, from 2003 to 2009. During my tenure as Director of the Arizona Department of Corrections, the department was the first correctional system to be selected Winner of the Innovations in American Government awards program, for a prison-based reform that we named Parallel Universe, pre-release preparation in which all inmates participated from the first to the last day of their incarceration guided by norms and values closely mirroring those of the community. As Director of the Missouri Department of Corrections, I also served on the state's Sentencing Commission.
6. I was a member of the adjunct faculties of University of Missouri-St. Louis Department of Criminology from 1990 to 1998, St. Louis University School of Law from 2000 to 2002, and Arizona State University Sandra Day O'Connor School of Law from 2005 to 2008, during which time I taught graduate-level Criminology and Correctional Law courses and led Sentencing Seminars.
7. I have served continuously on the Women's Refugee Commission since 2012, and the American Bar Association (ABA) Commission on Immigration since 2014.
8. I am knowledgeable about both the American Correction Association and ICE Performance-Based and National Detention Standards, including Medical Care, Disability Identification, Assessment and Accommodations, and Classification Systems, which is premised on objective, evidence-based risk assessments and the least restrictive housing and community-based assignments consistent with those assessments. I have also participated in the development of ABA professional standards for both correctional systems and ICE detention facilities. I am familiar with the California Board of State and Community Corrections Title 15 Minimum Standards for Local Detention Facilities.
9. I am knowledgeable about the operation of civil detention and criminal pre-trial and sentenced correctional facilities, and the individuals in the custody of both systems.
10. I have served as a corrections expert for the California Department of Justice, Disability Rights California, and the Hampton County, Massachusetts Sheriff's Department. I am currently engaged by the California Department of Justice, the Southern Poverty Law

Center, the American Civil Liberties Union,

Correspondence and Other Mail,

19. These efforts to achieve and maintain compliance, as implemented, have failed to realize their intended outcomes – accountability, transparency, and continuous improvement.
20. The U.S. Office of Government Accountability (GAO) has made several recent studies of ICE detention operations. The GAO identified a number of reoccurring impediments to

delays in both agencies' recording of "book-ins" and "book-outs." The GAO also considered the various mechanisms DHS used to elicit and address detainees' complaints and conclu

September 2019, Tae Johnson, Assistant Director for Custody Management, ICE Enforcement and Removal Operations, appeared before the Committee on Homeland Security, Subcommittee on Oversight, Management, and Accountability, regarding Oversight of Detention Facilities.²⁰ He reported, responding to the OIG findings, that ICE was reevaluating its current inspection practices and planned to modify some of its requirements. He stated ERO had also begun to monitor Nakamoto, the vendor with which it contracted to monitor detention facilities.

In January 2019, the DHS OIG issued *ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards*.²¹ At the time of that study, ICE contracted for 206 detention facilities. The OIG focused on 106 facilities which, when combined, received in excess of \$3 billion the prior year to detain removable aliens. Although ICE had a system in place to manage and oversee detention contracts, just 28 of the 106 contracts included the Quality Assurance Surveillance Plan (QASP) provision, which would allow ICE to impose financial penalties to ensure facilities met performance standards. The OIG determined ICE imposed financial penalties on only two occasions despite documenting thousands of instances of facilities' failures to comply with detention standards. Instead, ICE issued waivers, exempting facilities with deficient conditions, from complying with certain standards. The OIG discovered ICE also failed to generate written instruction to gove

22. Most recently, in the wake of the pandemic, ICE suspended all facility annual inspections by the Nakamoto Group, Inc. for 30 days. Despite this vendor's documented deficiencies, in a time of heightened uncertainty, a marked increase in complaints by detainees, family members, attorneys and other advocates about facilities' non-compliance with detention standards, and less access by detainees to facility staff for assistance, additional oversight could be beneficial and should be resumed.

23. These failures of oversight extend to the four facilities at issue in this litigation.

The Irwin County Detention Center,²³ It was last inspected by the Nakamoto Group, Inc. (NGI) on June 13, 2019.²⁴ It was last inspected by the Nakamoto Group, Inc. (NGI) on June 13, 2019. Based on my experience having reviewed 204C00437.23 re. W* n BT 7212.22 Tm 0.0 go 612 792 BT/FZ 12 92 re4

The Pine Prairie ICE Processing Center²⁹ was last inspected by the Nakamoto Group, Inc. (NGI) on April 25, 2019.³⁰ At the time of that inspection, the facility was “cohorting” over 500 detainees following an outbreak of mumps among the population. NGI did not indicate whether mandatory services were interrupted during the quarantine and if the facility took any measures to mediate the impact of the quarantine on detainees’ access to mandated services including access to counsel. NGI identified two deficiencies about which no information was provided. Also missing on-line from

Pine Prairie facility, and 10 people held at the LaSalle facility in Louisiana, and 11 people held at the Stewart facility and 2 people held at the Irwin facility in Georgia.³⁶ An additional 39 confirmed cases represent ICE employees assigned to detention facilities including 2 staff members assigned to the Steward facility in Georgia.³⁷ ICE does not report the status of detention staff employed by the facilities.

31. The lethal and highly infectious nature of COVID-19 makes it even more important that DHS and ICE ensure individuals in detention can reliably and adequately communicate with lawyers.
32. For example, at each of the facilities at issue, immigration proceedings are ongoing.³⁸ Access to immigration lawyers is not only important for purposes of the removal determination itself, but immigration attorneys may be able to obtain their clients' release on bond or parole—especially given the dangers of detention during COVID-19. It is therefore incumbent on detention officials to ensure that detained people can freely communicate with their attorneys (and their attorneys' agents) during this pandemic.
33. Moreover, ready access to attorneys during COVID-19 is crucial for ensuring that detained persons' constitutional right to adequate medical care and statutory rights to disability accommodations are respected during this pandemic. Across the country, many detained persons are filing actions related to inadequate medical care and poor conditions during the COVID-19 pandemic. DHS and ICE are obligated to ensure that detained persons can communicate with lawyers concerning their conditions of confinement and are not impeded from accessing courts to vindicate their constitutional and statutory rights.

ICE directed that facilities shall afford indigent detainees the same access and related privileges as are other detainees including the ability to make calls to the ICE-provided

dedicated facilities must continue to comply with its March 27 Memorandum to Detention Wardens and Superintendents and subsequent updates.

41. ICE Pandemic Response Requirements (PRR) contain critical enforcement tools that are required – its detention standards, facility contracts, and pandemic instruction – to provide the detained tained tainednu2 0 3Tf 0 0 mid ~~td~~

Working with various detention contractors and telephone service providers to ensure all detainees receive some number of free calls per week.⁵²

46. ICE did not commit to adopting any of the improvements. ICE did not indicate whether it would require a requisite level of effort by the facilities and field offices to enhance visitation at any location. It did indicate whether Headquarters would monitor to assess its impact and intervene as needed.
47. The U.S. Centers for Disease Control and Infection (CDC) issued Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities on March 23, 2020.⁵³ The CDC provided interim guidance concerning operational preparedness, prevention, and management, to ensure continuation of essential public services and protection of the health and safety of persons in custody and staff.⁵⁴ ICE incorporated portions of the CDC guidelines concerning access to counsel in its March 27 Memorandum and April 10 Requirements.
48. Missing from the documents issued by ICE is CDC instruction intended to improve communication and promote collaboration and that it is applicable to access to counsel:

Communication and Coordination. Develop information-sharing with partners. Create and test communication plans to disseminate critical information to detained persons, staff, contractors, vendors, and visitors as the pandemic progresses. Communicate with the public about any changes to facility operations, including visitation.

Coordination with court officials. Identify any lawful alternatives to in-person court appearances, such as virtual court, as a social distancing measure to reduce the risk of COVID-19 transmission. While confirmation of suspected cases are pending confirmation or upon confirmation, when possible, arrange lawful alternatives to in-person court appearances.

Prevention practices for visitors. If possible, communicate with potential visitors to discourage contact visits in the interest of their health and others. Perform verbal screening and temperature check for all visitors on entry. Provide alcohol-based hand sanitizer with at least 60% alcohol in visitor entrances, exits, and waiting areas. Provide visitors with information to prepare them for screening. Promote non-contact visits.

⁵² *Id.*, pp. 12-13.

⁵³ U.S. Centers for Disease Control and Infection (CDC), Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, Mar. 23, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html> [hereinafter CDC COVID-19]⁵⁴

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Consider reducing or temporarily eliminating the cost of phone calls. Consider increasing phone privileges.

Implementation, modification of visitation programs. If moving to virtual visitation, clean electronic surfaces regularly. Inform potential visitors of changes and the reasons. Clearly communicate any changes to the detained population. If suspending contact visits, provide alternate means to engage with legal representatives and other individual with whom they have a legal right to consult.

49. ICE Pandemic Response Requirements incorporate some, not all, CDC guidelines including those concerning access to counsel, but direct all facilities to comply, presumably in full, with the CDC guidelines as well as the relevant ICE detention standards and ICE contract. If ICE headquarters has not made the effort to reconcile the differences in its instructions and those of the CDC, and issue one clear and unequivocal set of requirements that must be fulfilled, what assurance has ICE Headquarters that the field is willing or able to do so.

V. Immigration Detention Oversight & Operational Deficiencies Impede Access to Counsel

50. As was established in Section II, Immigration and Customs Enforcement has had considerable difficulty with detention operations for years. The agency is comprised primarily of law enforcement personnel with extensive expertise performing removal functions, but not in the design and delivery of detention facilities. Based on my years of executive experience in immigration detention, state and local correctional systems, and enforcement agencies including ICE, it is my opinion that ICE has not yet established a system of immigration detention with the requisite management tools, informational systems and oversight to detain and supervise this population as is required. Its lack of expertise *and* interest in this area, coupled with its continual search for more beds, creates conditions under which ICE is continually deferential to its contractors and facility administrators, a situation that its providers take advantage.
51. ICE detention standards recognize attorneys must have access to their clients every day of the week including weekends and holidays.⁵⁵ Among its many performance-based requirements of the facilities to protect detainees' rights, "Facilities are required to provide access by means of in-person contact and non-contact visits, phone calls, and mail, all of which should be confidential and at no cost to either party."⁵⁶ "Facilities are encouraged to

⁵⁵ PBNDs Visitation, *supra* note 13.

⁵⁶ PBNDs Law Library and Legal Research Material, *supra*, note 5.

59. The ICE Law Libraries and Legal Material Detention Standard directs in part that detainees shall have access to courts and counsel. Detainees shall be able to have confidential contact with attorneys and their authorized representatives in person, on the telephone and through correspondence. Special scheduling consideration shall be given to detainees facing deadlines or time constraints.⁶⁰

60. In the March 27 memorandum for Detention Warden and Superintendents through Field Office Directors,⁶¹ ⁶² ICE

immigration proceedings are housed to establish a process for detainees and immigration attorneys to schedule appointments and facilitate these (remote) calls.⁶⁵

64. The Pandemic Response Requirements also suggested (a) adding all immigration attorneys of record to the Talton Pro-Bono platform, (b) leveraging technology (e.g., tablets and smartphones) to facilitate attorney/client communication, and (c) working with the various detention contactors and telephone service providers to ensure that *all* detainees receive some number of free calls per week.⁶⁶

65. It is unknown whether ICE ERO Headquarters required the Field Offices to monitor for compliance and what measures Headquarters took when the Field Offices or the facilities failed to comply. It is known that ICE ERO, the Field Offices and facilities failed to comply. There are both inadequate access and insufficient communication equipment in good working order at all four facilities, and no uniform system of oversight.

66. Since the suspension of all social visitation in response to the pandemic, the demand for VTC visits and attorney calls further exceeds its capacity. The facilities have made few changes and realized little improvement: Attorneys struggle to meet their ethical obligations to their clients. Detainees are unable to communicate with their attorneys.

67. Currently, attorneys wait as long as four to six days to receive a VTC appointment and as much as an additional six days to meet in-person or remotely with their client.

68. Facilities limit the number of VTC calls an attorney may have with their client in a period of time.

69. Clearing interpreters to participate in three-way calls continues to be impeded by the availability of the government attorneys to make those arrangements has not changed.

70. Appointments (1) are made with the daily notice, 30 days in advance (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100) (101) (102) (103) (104) (105) (106) (107) (108) (109) (110) (111) (112) (113) (114) (115) (116) (117) (118) (119) (120) (121) (122) (123) (124) (125) (126) (127) (128) (129) (130) (131) (132) (133) (134) (135) (136) (137) (138) (139) (140) (141) (142) (143) (144) (145) (146) (147) (148) (149) (150) (151) (152) (153) (154) (155) (156) (157) (158) (159) (160) (161) (162) (163) (164) (165) (166) (167) (168) (169) (170) (171) (172) (173) 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74. There is no apparent policy in place to enable an attorney to access her client by any means in the event of an emergency for the duration of the pandemic.
75. Attorneys continue to experience difficulty arranging confidential phone or video teleconferencing calls with their clients because there is not enough communication equipment in working order and corresponding connectivity to meet the demand.
76. Detainees continue to experience difficulties reaching their attorneys. As demand for phone use increases, the number of phones in dayrooms not working or disconnected is reported to have risen. The wait time for working phones is greater.
77. Additionally, the primary means by which detainees can speak with their attorney is from their housing units where most phone calls are recorded. There is also a phone to a hotline in the housing units and its calls are not recorded. None of the phone conversations in the housing units are confidential however, as all conversations can be overheard by staff and the other detainees in the unit.
78. All these conditions fail to comply with ICE Detention Standards. Non-compliance with ICE Detention Standards is also a material breach of the facilities' contracts with ICE. Failure to comply with ICE Detention Standards and facilities' contracts with ICE constitutes failure to comply with the ICE March 27 Memorandum for all dedicated detention facilities and the April 10 Pandemic Response Requirements for all detention facilities housing ICE detainees.

B. Failure to Deliver Mail and Modify Document Exchange Procedures

79. The ICE Correspondence and Other Mail Detention Standard directs detainees shall be able to correspond with their families, the community, legal representatives, government offices and consular officials. Incoming and outgoing letters shall be held for no more than 24 hours and packages no more than 48 hours before distribution, excluding weekends,

administrator may in his/her discretion allow for a reasonable amount of communication by means of facsimile device between the detainee and his/her designated legal representatives.⁶⁷

80. The ICE Law Libraries and Legal Material Detention Standard requires detainees shall be able to have confidential contact with attorneys and their authorized representatives in person, on the telephone and through correspondence.⁶⁸
81. The ICE Telephone Access Detention Standard requires detainees and their legal counsel shall be able to communicate effectively with each other.⁶⁹
82. The ICE Visitation Detention Standard encourages facilities to provide opportunities for both contact and non-contact visitation with approved visitors during both day and evening hours. And, it requires the facility shall permit messengers who are not legal representatives or legal assistants to deliver documents to and from the facility, but not to visit detainees.⁷⁰
83. When ICE released its Pandemic Response Requirements on April 10, ERO reiterated all detention facilities and local jails housing ICE detainees “*must*” comply with the ICE national detention standards applicable to their facility.⁷¹
84. Pandemic-related disruptions to in-person visitation and difficulties with remote communication have increased the need for reliable mail service and document exchange.
85. Mail service is not reliable at the four facilities. Attorneys use both the U.S. Postal Service and FedEx to send legal mail to detainees, but detainees do not receive everything that their attorneys have sent by either carrier. And, facilities do not routinely return undeliverable legal mail to the Postal Service or FedEx.
86. Delays in mail delivery transmittals impede attorney representation of their clients who increasing include medically vulnerable individuals. These delays can impact detainees’ health as well as the outcome of their cases.

⁶⁷ ICE Detention Standard 5.1 PBNDS Correspondence and Other Mail (last rev. Dec. 2016), <https://www.ice.gov/doclib/detention-standards/2011/5-1.pdf>, *supra* note 9.

⁶⁸ ICE Detention Standards, 6.3 PBNDS Law Library and Legal Material (last rev. Dec. 2016), <https://www.ice.gov/doclib/detention-standards/2011/6-3.pdf>, *supra* note 5.

⁶⁹ PBNDS Telephone Access, *supra* note 11

⁷⁰ PBNDS Visitation, *supra* note 13.

⁷¹ ERO COVID-19 PRR, *supra* note 58.

legal access and confidential communications with attorneys. Detainees shall be able to have confidential contact with attorneys and their authorized representatives in person, on the telephone and through correspondence.

95. The ICE Law Libraries and Legal Material Detention Standard⁷⁵ requires detainees shall be able to have confidential contact with attorneys and their authorized representatives in person, on the telephone, and through correspondence.

96. Confidentiality is a concern under any circumstances and particularly during a pandemic when medical as well as legal information is at risk. It is also a commitment that ICE, and by extension, its agents must keep. When ICE released its Pandemic Response Requirements on April 10, ERO reiterated all detention facilities and local jails housing ICE detainees “must” comply with the ICE national detention standards applicable to their facility.⁷⁶

97. Chronic and current coronavirus-related factors – risk of infection while attending an in-person attorney visit, significant and growing larger wait times for VTC calls/video conferencing, and problems with mail delivery and inspection – push detainees towards utilizing the regular phones and hotline numbers in their housing units to place legal calls

G07.2ees attorneys nT6 792 reW*nBT/F--6(e)4(nc)4(ing,)-91(a)4(nd)-800B1}TJ1A-5ETQ}TJ1 0B17.

101. The 2016 revisions to the 2011 ICE Performance-based National Detention Standards represent a

106. Attorneys who request additional time when scheduling an appointment with clients who will require interpretative services are routinely denied.

107. In addition to outright denials, there are several other impediments to accommodation.

In order to litigate Habeas Counsel petitions, legal staff must schedule remote consultations with clients and potential clients, and not in-person meetings, for all the reasons previously cited. Third party interpretation must be coordinated and provided by Habeas Counsel. There is no ability to request a remote legal visit for the weekend or in the evening. There is also no ability to schedule an expedite remote legal visit for any reason.

When an interpreter is present, there is a tendency on the part of custody staff to remain nearby rendering a confidential visit, non-confidential.

Detainees in quarantined housing units have less access, and less certain access to remote communication with counsel.

108. All these conditions fail to comply with ICE Detention Standards. Non-compliance with ICE Detention Standards is also a material breach of the facilities' contracts with ICE. Failure to comply with ICE Detention Standards and facilities' contracts with ICE constitutes failure to comply with the ICE March 27 Memorandum for all dedicated detention facilities and the April 10 Pandemic Response Requirements for all detention facilities housing ICE detainees.

E. Failure to Address the Spread of Coronavirus in the Detention Facilities.

109. ICE directed all the detention facilities comply with the CDC's Interim Guidance on Management of Coronavirus Disease 2019 in Correctional and Detention Facilities to prevent the spread of COVID-19 at their locations.⁷⁸ Fundamental to compliance are social-distancing and aggressive sanitation and personal hygiene. Specific to legal visits, the CDC recommends verbal screening of visitors, 60% alcohol-based hand sanitizer availability at visitor entrance and exits, in the waiting areas and visitation rooms, that frequently touched items are cleaned and disinfected several times a day, and that everyone in those areas maintains a distance of 6 feet from one another.⁷⁹

⁷⁸ CDC, Interim Guidance, *supra* note 62.

⁷⁹ *Id.*, p. 13-14.

110. Visiting attorneys report the areas to which they have access – the lobby, waiting areas, restrooms, and visiting rooms – are dirty, hand sanitizer is not available, and social distancing is not enforced. They also report rolling requirements for personal protection equipment – masks, and sometimes, specifically 95-respirator masks, gloves and gowns – that they must bring with them and wear or they will be denied entry. The insistence that the masks be 95-respirator masks, which is not a CDC requirement and often was unavailable for purchase and otherwise held for first responders, is both an arbitrary and highly effective way to impede attorney and detainee access to one another. Additionally, this was not required of detention staff.
111. Attorneys also expressed concern that the facilities are not disinfecting frequent-touch items as CDC guidelines require, especially the phones that detainees use in their housing units, to call their attorneys and others.

F. Summary of Violations of Performance-Based National Detention Standards

112. There are several ICE detention standards that lay out the parameters of Access to Counsel. This analysis concerns four of them. They are Correspondence and Other Mail, Telephone Access, Visitation and Law Libraries and Legal Material. ICE also adopted special provisions in 2016, and applicable to all facilities, to fortify its commitment and rectify compliance with operational issues impacting limited English proficiency detainees and detainees with disabilities.
113. Based on my review of the declarations of SIFI attorneys concerning what is happening on the ground during the COVID-19 pandemic, I conclude that Defendants are likely violating the following standards set forth in the PBNDS:
114. Correspondence and Other Mail. This detention standard ensures detainees shall be able to correspond with their legal representatives, government offices and consular officials. In part, this requires incoming and outgoing mail, with the exception of special correspondence or legal mail, shall be opened to inspect for contraband and to intercept cash, checks and money orders. Correspondence may be delivered by a messenger. Incoming and outgoing letters shall be held for no more than 24 hours and packages no more than 48 hours before distribution, excluding weekends, holidays, or exceptional circumstances. All facilities shall implement policies and procedures addressing acceptable and unacceptable mail. Detainees may receive as correspondence, any material reasonably necessary for the detainee to present their legal claim, in accordance with this standard. When timely communication through mail is not possible, the facility administrator may in their discretion allow for a reasonable amount of communication by means of a facsimile

device between the detainee and their legal representative. ICE ERO and the facilities have failed to meet these requirements.

115. Telephone Access. This detention standard requires detainees may communicate with legal representatives, consulates, courts, and government agencies by providing them reasonable and equitable access to telephone services. In part, this requires detainees and their legal counsel shall be able to communicate effectively with each other. Privacy for detainee telephone calls regarding legal matters shall be ensured. Telephone access procedures shall foster legal access and confidential communications with attorneys. Telephones shall be maintained in proper working order. Detainees with hearing or speech disabilities shall be granted reasonable accommodations to allow for equal access to telephone services. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency and reasonable accommodation to avail themselves of this assistance. ICE ERO and the facilities have failed to meet these requirements.

116.

117.

Appendix A

Appendix B

Access to Counsel, Key ICE Performance-Based National Detention Standards Indicators

- I. ICE National Detention Standards delineate the immigration detainee's Access to Counsel. ICE's contract or written agreement with its detention providers including its enforcement

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- ii. Detainees shall be able to communicate and correspond with representatives from the legal groups that make presentations at the facilities.
 - iii. Detainees shall have access to information and materials provided by legal groups. Organizations shall be permitted to distribute information in response to specific legal inquiries.
- b.

- b. COVID-19 Modifications to Correspondence and Other Mail. There are none.
2. 5.6 Telephone Access. The purpose of this detention standard is to ensure that detainees may maintain ties with their families and others in the community, legal representatives, consulates, courts and government agencies by providing them reasonable and equitable access to telephone services.
 - a. Key ICE Compliance Indicators, Telephone Access.
 - i. Detainees and their legal counsel shall be able to communicate effectively with each other.
 - ii. Privacy for detainee telephone calls regarding legal matters shall be ensured.
 - iii. Telephone access procedures shall foster legal access and confidential communications.
 - iv. Detainees with hearing or speech disabilities shall be granted reasonable accommodations to allow for equal access to telephone services.
 - v. Telephones shall be maintained in proper working order.
 - vi. Detainees shall be able to make free calls to the ICE/ERO-provided list of free legal service providers for the purpose of obtaining initial legal representation, to consular officials, the DHS OIG, and the ICE Office of Professional Responsibility Joint Intake Center.
 - vii. Indigent detainees, who are representing themselves pro se, shall be permitted free calls on an as-needed basis to family or other individuals assisting with the detainee's immigration proceedings.
 - b. COVID-19 Modifications to Telephone Access. ICE directed facilities to ensure all detainees are able to make calls to its list of free legal service providers and consulates at no charge to the detainee or the receiving party.³

- ii. Visits between legal representatives and assistants and the detainee confidential and shall not be subject to auditory supervision. Private consultation rooms shall be available for such meetings.
 - iii. Each facility shall permit legal visitation seven days a week, including holidays, for a minimum of eight hours per day on regular business days (Monday through Friday), and a minimum of four hours per day on weekends and holidays. The facility shall provide notification.
 - iv. In visits referred to as legal visitation, each detainee may meet privately with current or prospective legal representatives and their legal assistants. Legal visits may not be terminated for routine official counts.
 - v. In emergency circumstances, facilities may consider requests from legal representatives for extended visits or visits outside normal facility visiting hours.
 - vi. Persons allowed to visit include attorneys and other legal representatives, legal assistants, and translators and interpreters. Additionally, the facility shall permit messengers who are not legal representatives or legal assistants to deliver documents to and from the facility, but not to visit detainees.
- b. COVID-19 Modifications to Visitation. The March 27 Memorandum directed non-contact legal visitation (e.g., Skype or teleconference) should be offered first to limit exposure to ICE detainees but in-person contact visitation should be permitted if determined essential by the legal representative. Prior to the in-person visit, the legal representative must undergo the same medical screening required for staff entry into the facility. The ultimate legal visit approving authority lies with the Warden or Facility Administrator; however, the facility should notify its local Field Office Director as soon as possible of any denied legal visits.⁴

The ERO COVID-19 PRR added, ICE continues to explore opportunities to enhance attorney access while legal visits are impacted.⁵ For facilities at which immigration hearings are conducted or where detainees are otherwise held who have cases pending immigration proceedings, this may include:

- i. Adding attorneys of record to the Talton Pro-bono platform.
- ii. Requiring facilities to establish a process for detainees/immigration attorneys to schedule appointments and facilitate the calls.
- iii. Leveraging technology to facilitate attorney/client communication.
- iv. Working with detention contractors and telephone service providers to ensure all detainees receive “some number” of free calls per week.

The PRR also directed that there be communication with the public about any changes to facility operations including visitation programs. Facilities were encouraged to prohibit

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or, at a minimum, significantly adopt restricted visitation programs.” ICE’s meaning is unclear. Social visitation was suspended indefinitely effective March 13.

IV. ICE national detention standards also address accommodations for detainees with disabilities and limited English proficiency to partake of mandated activities including access to counsel.

1. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP).
2. The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and notetakers, as needed.
3. The facility will also provide detainees who have limited English proficiency (LEP) with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.
4. There are no COVID-19 modifications to provisions to address accommodations for detainees with disabilities and limited English proficiency.