

Congress of the United States
Washington, D.C. 20515

June 5, 2020

Acting Secretary Chad Wolf
U.S. Department of Homeland Security
500 12th St. SW
Washington, D.C. 20536

Acting Director Matthew T. Albence
U.S. Immigration and Customs Enforcement
500 12th St. SW
Washington, D.C. 20536

Dear Acting Secretary Wolf and Acting Director Albence:

We write to express our concerns regarding the significant barriers to phone access experienced by individuals in U.S. Immigration and Customs Enforcement (ICE) custody at the El Paso Service Processing Center (“EPSPC”) in El Paso, Texas and the Otero County Processing Center (“Otero”) in Chaparral, New Mexico. We also request that ICE expeditiously provide a detailed plan that will fully protect the right of detained individuals to speak to their attorneys. This plan must ensure that phone access for legal representation is free, confidential, and comprehensive, both during and after the coronavirus (COVID-19) pandemic.

Individuals held in ICE custody need meaningful access to working telephones to prepare their legal case with an attorney. Denial of this essential resource puts people in ICE custody at a severe disadvantage and is a violation of due process. In-person visits are often not possible as ICE detention facilities are frequently in remote locations, sometimes thousands of miles away from their families and attorneys.

Additionally, the COVID-19 pandemic has undeniably increased the need for phone access in ICE detention centers, as many immigrant attorneys cannot visit their clients in detention, do not feel safe doing so, or do not have access to the personal protective equipment required by ICE. Detained individuals report phone access that is further limited during quarantines and lockdowns, even though they are forced to proceed with their cases in immigration court. The COVID-19 pandemic makes the need for a comprehensive solution more acute.

Individuals detained at the EPSPC and Otero report a large range of challenges regarding phone access. Such challenges include expensive rates for phone calls and a lack of privacy, which prevent individuals from discussing sensitive information relevant to their immigration cases while others are in the room. Furthermore, individuals detained in the El Paso area state that some phones prohibit the selection of options from prerecorded menus or the ability to leave voicemails, and some individuals are not provided instructions for using the phone in their native language.

Attorneys representing individuals in Otero and EPSPC report the inability to make incoming calls, leave messages for their clients, schedule calls in advance, or add a third-party, such as an interpreter, to the call. They also state denial of calls to prospective clients who they have not yet committed to represent. These barriers reported by attorneys and detainees in EPSPC and Otero prompted the filing of a lawsuit in New Mexico on May 4, 2020.

On May 4, 2020, ICE officials informed Congressional staff that every person in detention would receive 520 free minutes of phone calls throughout the COVID-19 pandemic. However, the provision of these free minutes has reportedly been inconsistent across ICE facilities. While a step in the right direction, the elimination of fees for calls alone does not lift the many hurdles to reliable and private phone access. A long-term policy of providing free, confidential, and comprehensive phone calls for legal representation is necessary to protect due process.

To have a better understanding of the policies currently in place at the EPSPC and Otero, and to ensure we can work together to address the issues aforementioned, we request responses to the following questions by June 19, 2020:

1. How will EPSPC and Otero compensate for the decrease in in-person visits during the COVID-19 with phone access?
2. How does ICE plan to resolve the documented barriers to phone access for legal representation in EPSPC and Otero?
3. How will ICE ensure all detained individuals at EPSPC and Otero receive the agreed upon 520 free minutes of phone calls throughout the COVID-19 pandemic?
4. Do EPSPC and Otero provide spaces for unmonitored legal calls that ensure complete privacy? Where is the space in the facility?
5. How will EPSPC and Otero ensure that legal calls are unmonitored?
6. Do EPSPC and Otero utilize a call service that allows for the selection of options on a prerecorded menu during a call? Which call service?
7. Do EPSPC and Otero allow detained individuals to leave a voicemail while on the phone?
8. Do EPSPC and Otero allow attorneys to call the facilities, schedule calls in advance and add a third party to a call with their detained client?
9. Who is responsible for ensuring that legal calls will be fulfilled?
10. Do EPSPC and Otero permit attorneys to speak to prospective clients on free, confidential calls before committing to represent them?
11. How will the pre-representation calls be arranged?
12. Do EPSPC and Otero provide instructions for phone use to individuals who speak a language other than English or Spanish? Which languages?
13. How do EPSPC and Otero ensure that instructions are provided to individuals who speak a language other than English or Spanish?

We thank you for your attention to this matter and look forward to your prompt response.

Sincerely,



Veronica Escobar
Member of Congress



Xochitl Torres Small
Member of Congress