

**NOTICE OF PROPOSED SETTLEMENT REGARDING TELEPHONE ACCESS IN
IMMIGRATION DETENTION**

LYON, ET AL. V. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT ET AL.,

Case No. 3:13-cv-05878-EMC

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

TO: All current and future adult immigration detainees who are or will be held by ICE in Contra Costa County, Kern County, Sacramento County, or Yuba County.

Purpose of this Notice

This notice has three purposes: 1) to tell you about the proposed settlement and the fairness hearing in this class-action lawsuit; 2) to tell you how to obtain more information, including a copy of the full proposed settlement agreement; and 3) to explain how you may object to the proposed settlement if you disagree with it.

Background on the Lawsuit

This class action lawsuit asserts that U.S. Immigration and Customs Enforcement (ICE) does not provide adequate telephone access for immigration detainees housed in Contra Costa West County Detention Facility, Yuba County Jail, Rio Cosumnes Correctional Center (RCCC), and Mesa Verde Detention Facility (collectively, the Facilities). Specifically, the lawsuit asserts that ICE is violating the statutory and constitutional rights of immigration detainees because the telephone access conditions in the Facilities: (1) prevent detainees from retaining and communicating effectively with lawyers, and (2) prevent detainees from gathering evidence to present in immigration-related proceedings. The lawsuit seeks changes to ICE and Facility policies; it does not ask for money damages.

Class Counsel (representing the interests of detainees in the Facilities) and ICE's attorneys have negotiated a settlement. The Court has given preliminary approval to this settlement, and the next step is for the Court to consider any comments and objections from class members. A hearing has been scheduled for September 29, 2016, at 1:30 p.m. before the Honorable Edward M. Chen of the United States District Court for the Northern District of California in Courtroom 5 – 17th Floor at the San Francisco Courthouse, 450 Golden Gate Ave., San Francisco, California. At this hearing, the Court will consider whether the proposed settlement is fair, reasonable, and adequate. The Court will then either approve the settlement or order the parties to continue litigating.

Description of the Proposed Settlement Agreement

Below is a summary of the key points in the settlement agreement. To get a copy of the full agreement, see the section entitled "For Further Information" after this summary.

1. **There will be more ways to make legal calls from housing unit phones and new phone booths for privacy in housing units.**
 - a. **ICE will add speed-dials to make free, direct, unmonitored calls to more government offices and some attorneys from the housing unit phones.** ICE will set up more speed-dial numbers (similar to ICE's pro bono platform) that will connect without needing a live person to answer and accept the call, that will not be recorded or monitored, and that will be cost-free for the caller and recipient. These numbers will include police departments, probation departments, state and federal courts, and rehabilitation centers as well as attorneys who provide a mix of paid and pro bono immigration representation and have requested to be added to the platform.
 - b. **ICE will create a list of attorneys who can be called without needing a live person to answer.** ICE will allow attorneys (including those who only provide paid representation) to receive calls from the housing unit phones without needing a live person to answer the telephone. These calls will not be recorded or monitored.
 - c. **ICE will install phone booths in and around housing units for case-related telephone calls.** ICE has agreed to install a total of 40 phone booths that will be distributed among the four Facilities. These phone booths will operate like the housing unit phones, but with more privacy.
 - d. **ICE will ensure access to phone booths.** Except during count and lockdowns, detainees will be able to use phone booths any time during waking hours (including non-free time at Contra Costa). Detainees who are housed in places where they need staff to escort them to a phone booth, such as segregation, will receive access within two waking hours of making a request, absent extraordinary circumstances (which must be reported to ICE). For detainees in disciplinary segregation whose discipline includes limits on telephone access, these requirements apply only to personal or family emergencies, Legal Calls, or calls that are otherwise justified by a compelling need.
 - e. **ICE will extend automatic cut-offs for telephone calls.**
 - i. *Yuba:* Cut-offs for the housing unit phones will be extended from 20 minutes to 40 minutes, and there will be no automatic cut-off in the Yuba phone room.
 - ii. *RCCC:* Cut-offs for the housing unit phones will be extended from 20 minutes to 40 minutes.
 - iii. *All Facilities:* The automatic cut-off for calls from ICE's pro bono platform will be extended to 60 minutes.
 - iv. Based on demonstrated need in individual circumstances, ICE may impose time limits on telephone calls to ensure everyone has access.

2. **There will be more ways to make legal calls from private phone rooms.**
 - a. **Immigration detainees will be allowed to use private phone rooms for legal calls, including calls to non-attorneys.**
 - i. *In general:* These calls will not be recorded or monitored, and will not require a live person to answer. When connecting the call, Facility staff or ICE personnel can check the call recipient's name and ask if the call recipient agrees to speak to the caller, but cannot announce the detainee is calling from a jail or detention facility. If nobody answers, the caller will be able to leave voicemail messages and navigate automated answering systems that require dialing an extension.
 - ii. *Calls to attorneys:* Immigration detainees will be able to call attorneys from these phones for long calls or calls that need extra privacy. Also, attorneys may request calls be scheduled at particular times.
 - iii. *Calls to non-attorneys:* Immigration detainees will be able to call non-attorneys from these phones if the call is case-related (for example, to request a supportive letter or to get help obtaining documents) and the detainee has already tried and been unable to contact the person using a housing unit phone.
 - iv. *RCCC and Yuba:* A phone room, phone booth, or other enclosure will be added to meet this requirement at RCCC, which currently has no private phone room. Privacy will be improved in the Yuba phone room.
 - b. **Phone room calls will be generally limited to 30 minutes but immigration detainees can request longer calls.** However, in periods of high demand, ICE may limit call lengths to ensure everyone has access.
3. **On-site facilitators at each Facility will process telephone requests and provide timely access to phone rooms.** Calls will ordinarily be provided within 8 waking hours, and (except in extraordinary circumstances) always within 24 hours of a request.
4. **Each Facility will take and deliver non-confidential phone and/or email messages related to immigration detainees' immigration cases within 24 hours.**
5. **For detainees who cannot afford to pay for phone calls, ICE will provide extra phone room access or phone credit.** This will be available to detainees who have had less than \$15 on their commissary account for 10 consecutive days at the time of the request.
6. **ICE will make accommodations for international legal calls and three-way calling for legal calls.** There will be a system for requesting international legal calls even if international calls cannot be dialed from housing unit phones or phone rooms. Upon request and statement of a need, such as needing an interpreter to join a call, ICE will facilitate 3-way calls in the Facility (if possible) or at the nearest field office.

7. **ICE will assist people who do not read English or Spanish.** ICE will post a notice in 10 common written languages telling detainees to ask Facility staff for translations of telephone access materials and assistance with telephone access. On request, if local interpretation is not adequate or available, ICE will use a telephone-based “language line” interpreter to provide further explanations. Additionally, if a detainee is trying to call a person who does not speak English and cannot understand the automatic prompts to accept a call, the detainee can use the Phone Room to call that person for case-related calls.
8. **ICE will require training of all local ICE officers with duties related to detention and Facility staff whose duties include supervising detainees or providing telephone access.** ICE will also add detail to the inspection forms it uses in detention facilities across the country to evaluate compliance with detention standards regarding privacy for legal calls, timeliness in responding to telephone requests, availability of message delivery systems, availability of translation and interpretation services, and access to telephones for detainees in segregation.
9. **Five Year Agreement.** ICE will have one year after the Court finally approves the Settlement to make the required changes. The Settlement will be in effect for four years after that. During this time, ICE must provide information to Class Counsel to monitor and enforce the Settlement, including providing various documents and allowing Class Counsel to visit the Facilities to interview detainees.
10. **The Court can enforce the agreement if there are any violations.** The Court will retain jurisdiction over the case to enforce the terms of the Settlement Agreement.
11. **Attorneys’ fees and costs.** The Government will pay \$405,000 to Class Counsel in settlement of all claims for fees and expenses. See below for how to obtain more information about the attorneys’ fees settlement.
12. **Release of claims.** Class Members will release the government from all claims for declaratory or injunctive relief that were brought on behalf of Class Members based on the facts and circumstances alleged in the lawsuit.

For further information:

THIS IS A SUMMARY OF THE AGREEMENT. TO UNDERSTAND IT FULLY, YOU SHOULD READ THE ENTIRE AGREEMENT. You can get copies of the final settlement agreement, Class Counsel’s motion seeking the Court’s approval of the attorneys’ fees provision of the settlement, and copies of this Notice from: 1) Visiting ICE agents; 2) ICE’s website (www.ice.gov); 3) the ACLU of Northern California website (www.aclunc.org/our-work/legal-docket/lyon-v-ice-telephone-access-immigration-detainees); 4) by calling Class Counsel by using speed dial number #9160 through ICE’s pro bono call platform or by calling (415) 621-2493, ext. 329; 5) the

electronic docket in this case (Case No. 13-cv-05878 EMC), available at <https://ecf.cand.uscourts.gov>; or 6) by writing to Class Counsel at the address listed below:

Class Counsel
Lyon v. ICE Class Action Settlement
c/o ACLU Foundation of Northern California
39 Drumm Street
San Francisco, CA 94111

If calling or writing to Class Counsel, please indicate in your message or letter what you are asking for (a copy of the settlement agreement, the attorneys' fee motion, or the Notice), your name, and how to get in touch with you. If you are in custody, say the detention center where you are currently in custody. If you are out of custody, please provide your address and telephone number.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.

Procedures for Objecting to the Proposed Settlement:

You can ask the Court to deny approval of the settlement by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or deny the settlement. If the Court denies approval, the settlement provisions will not be implemented and the lawsuit will continue. If that is what you want to happen, you must object.

If you object to the proposed settlement, you should do it in writing and must submit the written objection to the Court. Attached to this notice is a sample objection form that you may use to file a written objection. You can request additional copies of this form from ICE agents that visit your detention facility. If you file an objection, you may also choose to appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney if required.

All written objections and supporting papers must:

- (a) Clearly identify the case name and number (*Lyon v. ICE*, Case No. 13-cv-05878 EMC);
- (b) Provide: (i) the Class Member's full name and current detention facility or address, (ii) a signed declaration that the Class Member is a member of the Class, (iii) the specific grounds for the objection, (iv) all documents or writings the Class Member wants the Court to consider, and (v) whether the Class Member intends to appear at the Fairness Hearing.
- (c) Be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, or by filing them in person at any location of the United States District Court for the Northern District of California;
- (d) **Be filed or postmarked on or before September 08, 2016.**

