Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

June 19, 2017

The Honorable Ajit Pai, Chairman
Federal Communications Commission
445 12th St. S.W.
Washington, D.C. 20554

Re: Comment on Report and Order and Further Notice of Proposed Rulemaking, GN Docket 13-111

Dear Chairman Pai:

The Human Rights Defense Center (HRDC), which publishes *Prison Legal News*, respectfully submits this Comment for GN Docket No. 13-111 in response to the Further Notice of Proposed Rulemaking: Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities, issued by the Federal Communications Commission (FCC or the Commission).[1]

HRDC supports the legitimate efforts of correctional agencies to promote public safety, and we are aware of an isolated number of incidents where cell phones utilized by prisoners have resulted in injuries or death, including the attempted murder of Captain Robert Johnson. We cannot, however, support initiatives that are implemented due to the corruption and wrongful acts of correctional employees who are allowed to willfully create those potentially dangerous situations when prisoners' families are expected to pay for the "solution" through higher phone rates or fees for using the prison phone system. This is especially true when little effort has been made to curtail corruption and misconduct by detention facility staff, who are the primary purveyors of contraband cell phones.

The Perceived Problem

Detention facilities and the FCC have identified cell phones as a danger to society because crimes can be committed using wireless devices. Certainly, some tragic incidents have been documented that were facilitated with contraband cell phones. The reality, however, is that

[1] FCC Report and Order and Further Notice of Proposed Rulemaking, GN Docket No. 13-111, adopted March 23, 2017.

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prisoners with the intent to harm others are going to do so whether they have access to cell phones or not. For example, a special review of the Bureau of Prisons (BOP) conducted by the

Office of the Inspector General found "a significant number of federal inmates use prison telephones [i.e., the BOP's own phone system] to commit serious crimes while incarcerated – including murder, drug trafficking, and fraud."[2] Further, prisoners can order "hits," arrange drug deals or make escape plans by sending letters through the U.S. mail, since outgoing letters are typically not read or inspected by staff in most state prison systems.

The Real Problem

The government and for-profit companies that offer services to detect or disable wireless devices are attempting to resolve the contraband cell phone problem by penalizing prisoners and creating products designed to generate profit instead of dealing with the real problem – the failure of corrections officials to effectively deal with employees who smuggle cell phones into prisons and jails.

On this Docket, the CTIA recommends "criminalizing under state law the possession of an unauthorized phone in a correctional facility,"[3] but does not mention investigating, much less prosecuting, the source of such unauthorized cell phones. In a Comment filed by the Arizona Department of Corrections (AZ DOC), that agency notes they have dealt with this issue in part by making possession of contraband wireless devices a Class 5 felony,[4] though they do not focus on how the devices were smuggled into state prisons. And while combating contraband cell phone use in detention facilities may have "clear public safety implications," as stated in a Comment filed by the Florida Department of Corrections, HRDC disagrees that this problem is "within the authority of the Commission to regulate."[5]

Even more disturbing than the lack of focus on the underlying problem – staff who smuggle cell phones to prisoners – the Association of State Correctional Administrators (ASCA) blames the FCC for allowing "this threat to public safety to grow, as potential solutions have languished for want of FCC action, for well over a decade."[6] As the Commission is aware, the implementation of video calling services in prisons and jails has increased dramatically over the past few years. The Prison Policy Initiative reported in March 2015 that more than 500 facilities in 43 states and the District of Columbia were experimenting with video calling,[7] and that number has grown since then. With the elimination of in-person visits in 74% of jails that implement video calling (*Id.*), it stands to reason that if visitors are a primary source of contraband cell phones, then the opportunity to smuggle such devices into detention facilities should be going down. Yet the ASCA further attempts to deflect blame by telling the FCC that "your regulated carriers have proven largely disinterested in solving this critical public safety problem."[8]

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[2] https://oig.justice.gov/special/9908/exec.htm at page 1.
[3] CTIA *Ex Parte* Letters, GN Docket No. 13-111, filed March 2, 2017.
[4] Arizona Department of Corrections Comment, GN Docket No. 13-111, filed April 18, 2017.
[5] Florida Department of Corrections Comment, GN Docket No. 13-111, filed May 3, 2017.
[6] The Association of State Correctional Administrators Comment, GN Docket No. 13-111, filed May 30, 2017.
[7] https://www.prisonlegalnews.org/news/2015/mar/5/screening-out-family-time-profit-video-visitation-industry-prisons-and-jails
[8] The Association of State Correctional Administrators Comment, GN Docket No. 13-111, filed May 30, 2017.

While there may be an increase in disciplinary actions taken against correctional employees who smuggle cell phones to prisoners, published reports of staff members being prosecuted are not equal to the scope of the problem as described by the Commission and corrections officials, and more research must be done to establish the extent of smuggling by correctional staff and how it contributes to the problem of contraband cell phones.

Consider that prison and jail employees have 24/7 access to detention facilities, and in some cases are not subject to metal detector or pat-down searches when they report to work. Staff are also familiar with security protocols and are thus better informed with respect to circumventing those protocols. Visitors to detention facilities, on the other hand, have limited times when they can visit, are subject to pat-down searches and metal detectors, and are closely watched by staff during visitation. Thus, it is apparent that prison and jail employees have greater access and opportunity to smuggle cell phones, and are incentivized with sizeable bribes.

In fact, three major incidents involving smuggling by staff members were reported last month alone: an Indiana prison guard was accused of smuggling 100 cell phones **(Attachment 1)**; a corrections officer in Montgomery County, Ohio was convicted of smuggling cell phones, with the judge saying "a message needs to be sent" to law enforcement **(Attachment 2)**; and five Alabama prison guards were arrested in a corruption probe that included smuggling drugs and cell phones to prisoners **(Attachment 3)**.

As an example of what can happen when the issue of staff corruption is addressed, according to Christopher Acosta, spokesman for the California Department of Corrections and Rehabilitation (CDCR), who was quoted in a 2011 article published by California Watch, cell phones aren't much of a concern at Pelican Bay, the state's highest security lockup. "We haven't had a big problem with the phones like other institutions have, he said." **(Attachment 4)**. Fewer than 12 cell phones were confiscated in the five-year period between 2006 and 2011. *Id*. The location of the prison and the volume of visitors may play a role, but it is more likely that "a series of court rulings that forced Pelican Bay to clean up all aspects of its operations, including security and staff disciplinary rules," contributed to the lack of contraband cell phones – including random staff searches conducted at the facility. *Id*.

The Proposed Solution

Another article published by California Watch described both the risks and potential problems associated with managed access systems **(Attachment 5)**, as reported in a study by the non-partisan California Council on Science and Technology.[9] The study recommends "having private carriers identify and disable illicit phones and establishing airport-style screening systems" in detention facilities. *Id.* The union that represents state prison guards responded, saying contract negotiations to add to the "walk time" it takes correctional officers to get to their work stations could "cost the state millions," and CDCR spokeswoman Dana Simas remarked that "proposals requiring staff to submit to airport-style security screenings were 'shortsighted' and failed to attack the root of the problem." *Id.*

[9] https://www.documentcloud.org/documents/355647-2012cell.html

HRDC disagrees, and we are not alone in our concerns. As noted by the California Office of the Inspector General in a Special Report regarding contraband cell phones in state prisons, released in May 2009:

> According to the Department, inmates are paying those involved in smuggling cell phones into California prisons between $500 and $1,000 per phone. There are currently no criminal consequences for the introduction or possession of cell phones in prison, making this activity merely an administrative violation. Furthermore, current security entrance procedures provide ample opportunities for staff and visitors to bring contraband into prison facilities without fear of discovery. Therefore, the introduction of cell phones into state prisons is a low risk, high reward endeavor. **(Attachment 6 at 1)**.

And while two of the nine recommendations made in the report call for cell phone detection solutions and jamming devices, the majority of the recommendations are directed at employees, including legislative changes to make the introduction of cell phones in all detention facilities a criminal offence (in addition to possession), airport-style security screenings, restriction of the size of carrying cases brought into secure areas of prisons and a requirement that staff place all personal items in see-through plastic containers.[10]

It is worth mentioning that prison and jail employees apparently do not believe that cell phones jeopardize their safety, or they would not smuggle them in for prisoners – even for large bribes. Comparatively, we do not see regular news reports about guards smuggling guns to prisoners, unlike cell phones. The *Los Angeles Times* reported in 2011 that a state investigation revealed a guard had made $150,000 in one year smuggling cell phones to prisoners, and another had 50 phones in his car in a prison parking lot, labeled with the names of convicts. **(Attachment 7)**.

Even the FBI has provided prisoner informants with cell phones, indicating such devices are not inherently dangerous. A March 2017 article detailing the conviction of former Los Angeles County Sheriff Lee Baca for "obstructing an FBI investigation into corrupt and violent guards who took bribes to smuggle contraband into the jails he ran and savagely beat inmates" stated the federal probe began in 2011 "when Baca's jail guards discovered an inmate with a contraband cellphone was acting as an FBI mole to record jail beatings and report what he witnessed." In another case in Mississippi, a prison official at the Adams County Correctional Center reportedly allowed a prisoner informant to keep a cell phone so he could relay information to security staff. If contraband cell phones create such a public safety risk, why have the FBI and prison officials allowed prisoner informants to keep and use them? **(Attachment 8)**.

This nation's detention facilities are charged with ensuring public safety, and if they fail to perform that critical function, the Commission, wireless carriers, prisoners and their families are not responsible for picking up their slack. For this reason, HRDC does not believe the

[10] Note that in 2011, California enacted a law that criminalizes the smuggling of cell phones to prisoners. The law provides that "a person who possesses with the intent to deliver, or delivers [to prisoners] any cellular telephone or other wireless communication device or any component thereof ..." is subject to a misdemeanor charge punishable by a six-month jail sentence or a $5,000 fine, or both. See: www.prisonlegalnews.org/news/2012/jan/15/california-criminalizes-cell-phone-smuggling-seeks-technology-to-block-cell-phone-calls-from-prisons.

Commission should proceed with this Proposed Rulemaking, but if it elects to do so, any order that allows contraband wireless devices to be disabled in detention facilities through managed access systems or other means should 1) only allow that practice in facilities that allow contact visits (where an opportunity exists for visitors to smuggle contraband cell phones); 2) only allow that practice in facilities that have taken necessary steps to prevent smuggling by staff, including hard screening through metal detectors, which has proven effective in New Jersey **(Attachment 9)**; 3) only allow that practice in facilities that prosecute staff members who smuggle contraband to prisoners; and 4) ensure that prisoners and their families are not required to pay the costs for managed access systems through non-transparent contract bundling with other services offered by the same Inmate Calling Service (ICS) provider, such as phone calls, video calling, money transfer services, etc. that effectively hide the true costs of cell phone interdiction.

Any system that disables wireless devices should be funded through legislatively-appropriated funds or existing correctional agency budgets. Prisoners' families should not be required to pay for the corruption and misconduct of prison and jail staff, and the failure of corrections officials to hold them accountable through disciplinary actions and criminal prosecutions.

It should be noted that Global Tel*Link (GTL), the largest prison telecom provider in the U.S., does not attempt to hide the source of funding for its managed access system in California; the company pays for all equipment, installation and operating costs for providing managed access in state prisons. As a result, corrections officials describe the deal as "'risk-free' for taxpayers," while "company officials expect to offset those costs through increased demand for the pay phones."[11] Increased diligence and transparency will be required on all fronts to ensure that the cost of prison phone calls does not increase to offset the cost of managed access systems by ICS providers. Many managed access systems are brought to us by the same companies that have price-gouged prisoners and their families for decades – we cannot trust them to be fair, just and reasonable in any dealings with detention facilities where prisoners and their families pay the actual costs. Indeed, GTL and other telecom companies do not invest millions of dollars in cell phone interdiction systems at their own expense without expecting to recoup their investment, and historically such costs have been paid by prisoners' family members.

In a March 21, 2017 press release, Securus Technologies envisions a future where prisoners are "able to use our device OR THEIR DEVICE to communicate with approved individuals ... over a centralized platform with a low per minute rate…." **(Attachment 10,** emphasis in original). Apparently, cell phones behind bars are fine if an ICS provider is able to make a profit. And we should not forget that one of the major reasons for the increase in the number of contraband cell phones was exorbitant ICS rates that went unregulated for decades – prisoners primarily used cell phones so they could afford to stay in touch with their families. The New York Department of Corrections and Community Supervision (NY DOCCS) noted in its July 2013 filing on FCC Docket WC 12-375, with respect to the outcome of eliminating kickback commissions paid to the agency and a subsequent reduction in ICS rates, that "The Department believes that a lower calling rate has also contributed to a lower rate of illicit cell phone use by inmates in New York. In 2012, the Department confiscated less than 100 cell phones, compared to over ten thousand annual seizures in comparably-sized correctional systems." **(Attachment 11)**. In short, contraband cell phone usage is directly tied to high ICS phone rates.

[11] See Attachment 5.

Conclusion

HRDC is not opposed to the implementation of security measures in detention facilities that promote public safety; however, without dealing with the crux of the contraband cell phone problem – corrupt correctional employees – the FCC's initiative to promote technological solutions to combat contraband wireless devices will not be successful. The Commission is attempting to regulate a natural result that stems from the long-standing practice of failing to prevent prison and jail staff from padding their wallets by selling contraband cell phones to prisoners. A technological solution will not be effective until the supply chain is cut off.

Detention facilities should be able to stop contraband smuggling by their own employees, and the proposed solution described above will insure that prisoners, their family members and other taxpayers do not pay the price for the failure of correctional authorities to police and discipline corrupt staff members. We respectfully request that the Commission not undertake any action that promotes managed access systems which could result in increased costs to prisoners and their families through higher ICS phone rates, video calling rates or other services as a way to offset the cost of managed access systems. Contraband cell phones can be largely eliminated through efforts to address smuggling by staff, including increased security screenings, routine discipline and prosecution of employees who smuggle cell phones, as well as affordable ICS rates that reduce the demand for contraband wireless devices.

Thank you for your time and attention to this important matter.

Sincerely,

Paul Wright
Executive Director, HRDC

Attachments

/s/
Prison Policy Initiative
www.prisonpolicy.org

/s/
Center for Media Justice
www.mediajustice.org

/s/
Southern Center for Human Rights
www.schr.org

/s/
Illinois Campaign for Prison Phone Justice,
a project of the Urbana-Champaign Independent Media Center
https://nationinside.org/campaign/illinois-for-prison-phone-justice/

/s/
Southern Poverty Law Center
www.splcenter.org

/s/
International CURE
Washington DC
www.curenational.org

/s/
Uptown People's Law Center
www.uplcchicago.org

/s/
National Center for Lesbian Rights
www.NCLRights.org

/s/
Working Narratives
www.workingnarratives.org

Attachment 1

Indiana prison guard accused of smuggling 100 cellphones

Vic Ryckaert , vic.ryckaert@indystar.com Published 7:29 a.m. ET May 10, 2017 | **Updated 5:12 p.m. ET May 10, 2017**

(Photo: Indiana State Police)

An officer at the Pendelton Correctional Facility was arrested Tuesday for allegedly smuggling mobile phones into the prison.

Investigators found more than 100 cellphones hidden in a vehicle driven onto the prison grounds Tuesday by Correctional Officer Taylor Hardesty, according to an Indiana State Police news release.

The cellphones were individually sealed in plastic bags. Hardesty had permission to drive the vehicle on to prison grounds to have the brakes repaired.

State police arrested Hardesty on Tuesday afternoon at a friend's home on the south side of Indianapolis.

Records show Hardesty, 23, of Indianapolis, was held Wednesday in the Madison County Jail on an initial charge of trafficking with an inmate. Bond was set at $20,000.

Taylor Hardesty, 23, Indianapolis, was held in the Madison County Jail on an initial charge of trafficking with an inmate on Wednesday, May 10, 2017. *(Photo: Madison County Sheriff's Department)*

Call IndyStar reporter Vic Ryckaert at (317) 444-2701. Follow him on Twitter: @vicryc (http://twitter.com/VicRyc).

Read or Share this story: http://indy.st/2pw4jDU

Attachment 2

BREAKING Autopsy report in for Centerville pilot, wife who died of OD

Corrections officer sentenced for selling cell phones to inmates

Mark Gokavi - Staff Writer
Updated 3:12 p.m Tuesday, May 23, 2017 Filed in Crime

VIEW CAPTION

The former Montgomery County Jail corrections officer convicted of providing inmates with cell phones will spend a year in federal prison, a judge ruled Tuesday while saying a message needed to be sent to law enforcement.

Michael Rose Jr., 29, was convicted of to attempted extortion under color of official right. He was accused of providing multiple cell phones to inmates to conduct heroin trafficking in exchange for money.

"I think a message needs to be sent to those who serve as corrections and law enforcement officers that this breach of trust cannot be tolerated," said U.S. District Court Judge Walter Rice. "The crime is incredibly serious."

EARLIER: Corrections officer pleads guilty to providing cell phones to inmates

Benjamin Glassman, U.S. Attorney for the Southern District of Ohio, attended Tuesday's sentencing in Dayton's U.S. District Court.

"I agree with that sentiment entirely," Glassman said. "A message should be sent, and I hope that this prosecution — including the sentence of 12 months in federal prison — sends that message. Any bribe-taking by a public employee is a serious matter."

Rice also ordered Rose to do 100 hours of community service, a mental health assessment, cognitive behavior therapy and submit to various probation conditions. Rose earned seven days of jail-time credit.

RELATED: Corrections officer had money issues

The statutory sentencing range for the charge was from zero to 20 years and fines of up to $250,000. The advisory, non-binding sentencing range calculated for Rose was 12 to 18 months.

Rice said Rose had a horrible childhood and that his parents were part of the Outlaws Motorcycle Club. He said Rose was a decent person who made a very bad mistake."

He allowed Rose to not report for prison until Oct. 15, so Rose can remain employed as a truck driver, Rose's children can be back in school and his wife can look for a teaching position. Prosecutors asked Rice to reconsider Rose's delay of imposing the sentence. Rice declined.

SOCIAL MEDIA: Follow Mark Gokavi on Twitter or Facebook

"I'm definitely ashamed of what I did," said Rose, whose attorney said that his client should have never been hired to that job. "I'm embarrassed."

Defense attorney James Fleisher filed his sentencing memorandum under seal, but Rice mentioned the 13 letters attached supporting Rose.

"I was in a bad spot and I made a poor decision," Rose said. "I know I can be a better person."

MORE: 15 lawsuits allege mistreatment of inmates at area jails

Assistant U.S. attorney Brent Tabacchi wrote that Rose deserved more than the 6 months suggested by a pre-sentencing report.

"There is not a greater breach of public trust than when a government employee takes a bribe," Tabacchi said, noting that corrections officers should take note of the sentence for someone who also allowed outside food into the jail that included drugs. "It will make someone think twice."

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Attachment 3

http://www.al.com/news/birmingham/index.ssf/2017/05/5_alabama_prison_guards_arrest.html

5 Alabama prison guards arrested in corruption probe

67

Updated on May 30, 2017 at 5:43 PMPosted on May 30, 2017 at 5:17 PM

6

Gallery: Staton Corruption Probe

1.8kshares

BY CAROL ROBINSON
crobinson@al.com

The Alabama Department of Corrections has arrested five of its own correctional officers on charges they used their positions for personal gain.

ADOC on Tuesday afternoon announced the arrests following a three-month probe at Staton Correctional Facility in Elmore. ADOC investigators made the arrests at the prison on May 24 and 26.

Those officers arrested are: Ronald Dickerson, 23, of Montgomery; Jarod McDowell, 29, of Wetumpka; Joshua Alexander, 26, of Hayneville; Leonard Scott, 31, of Montgomery and Patrick Jones, 42, also of Montgomery. All but Jones have resigned.

The ADOC Investigations and Intelligence Division's Corruption and Fraud Task Force launched the investigation after receiving information of a suspected bribery scheme involving officers and inmates, Commissioner Jeff Dunn said in a news release. In return for giving inmates contraband, such as drugs and cellphones, investigators found that the inmates were using the cellphones to create online money accounts illegally in order to purchase items for the officers.

The investigation revealed the officers accepted bribes ranging from home electronics, clothing, and automobile accessories; to a cruise. There are pending charges against the inmates involved as well.

"After months of investigating this case, our corruption and fraud task force uncovered the bribery scheme involving correctional officers who are sworn to protect the public, but

instead chose to use their position to illegally further their self-interest," Dunn said in a prepared statement.

Staton Correctional Facility opened in June 1978 and is located off Highway 143 approximately 12 miles west of Wetumpka, AL. The institution was named in honor of Thomas F. Staton, a previous Chairman of the Board of Corrections.

According to the ADOC website, Staton provides emergency medical care and a medical observation unit for Draper, Elmore, and Frank Lee facilities. Additionally, Staton, through the J.F. Ingram Technical College, offers educational and vocational courses such as adult basic education, college classes, literacy programs, auto body and heavy equipment repair, upholstery, welding, horticulture, and barbering. Staton also has a law library, staff psychologist for counseling, and substance abuse treatment programs. Staton is classified as a medium custody correctional facility

ADOC began the process of establishing the corruption and fraud task force in 2016 to uncover and eradicate employee and inmate corruption in Alabama prisons and fully staffed the task force in February 2017.

ADVERTISING

"Our department has zero tolerance for corruption among our officers and employees and we will do everything within our authority to ensure those who choose to engage in criminal activity are terminated from employment and prosecuted to the fullest extent of the law," Dunn said.

In addition to forming the corruption and fraud task force, ADOC has increased facility inspections and searches and is in the process of installing new body scanners in its facilities for finding and detecting contraband. The department is considering trained canine units as an option for interdicting the contraband cellphones.

To further address the problem at the national level, Dunn and corrections directors from other states met with FCC officials in Washington DC in March to evaluate available technologies that could one day render them ineffective inside prisons.

Dunn said ADOC has made it a top priority to eliminate corruption and find solutions for making contraband cellphones inoperable inside state prisons. In 2016, ADOC seized more than 3,500 illegal cellphones and made over 70 contraband arrests.

In responding to the arrests, Dunn said, "the vast majority of our correctional officers are committed to his and her profession and want to do what's right for the good of the department and for the citizens of our state. Those who do a disservice to the department by failing to uphold the public's trust represent a very small percentage of our total workforce."

Attachment 4

CALIFORNIA WATCH

California Watch

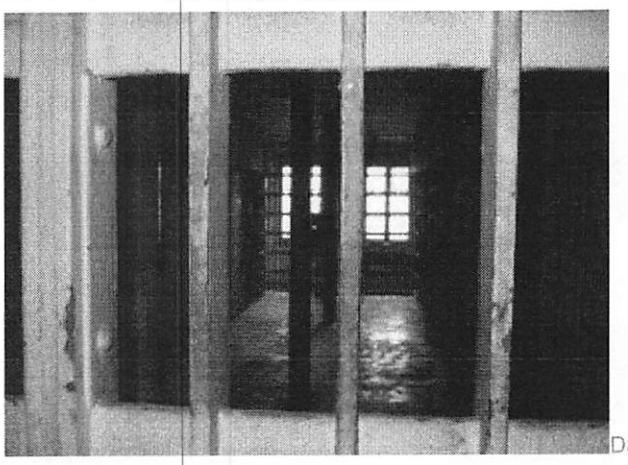
Founded by the Center for Investigative Reporting

PUBLIC SAFETY | DAILY REPORT

Smuggled cell phone problem at prison overblown, officials say

PRINT

March 3, 2011 | Michael Montgomery



David Quigley/Flickr

Late last year then-Attorney General Jerry Brown scolded the state Department of Corrections and Rehabilitation for the surge in smuggled cell phones getting into the hands of violent inmates.

"For a $9 billion expenditure, that's a failure we can't tolerate," Brown said at a press conference announcing a crackdown against the notorious Nuestra Familia prison gang.

Brown's criticism focused on Pelican Bay State Prison, where he said gang leaders locked in isolation units were able to pass messages to associates who then used cell phones to transmit orders for murders, drive-by shootings and other gangland-style crimes on streets throughout California. (Authorities say they confiscated some 11,000 cell phones in California prisons last year and earlier this year confiscated a phone being used by convicted serial killer Charles Manson.)

Brown's solution was an "electronic net" over Pelican Bay capable of blocking illicit cell phone calls by inmates while allowing others to pass through.

The state will soon begin experimenting with so-called "managed access" technology at two prisons, at an estimated cost of $1 million per facility

But it seems that in the case of Pelican Bay, the state's highest security and most feared lock-up, Brown may have got his facts wrong.

According to department statistics obtained by California Watch, authorities have confiscated fewer than 12 cell phones from Pelican Bay inmates since 2006, putting the facility at the bottom of the state prison system for illicit cell phones.

Prison spokesman Christopher Acosta says cell phones simply aren't much of a concern at Pelican Bay.

"We haven't had a big problem with the phones like other institutions have," he said.

State officials speculate that Pelican Bay's remote location near the Oregon border means cell phone reception is thin, undercutting the lucrative market for smuggled phones. (They can go for as much as $1,000 in other facilities.)

However, cell phone operators such as Verizon promise full digital coverage to the area around the prison, though it's unclear whether the signal can penetrate the thick concrete walls of the facility.

Officials say Pelican Bay also gets far fewer inmate visitors due to the great distance people have to travel to get to the facility. (The prison is some 700 miles from Los Angeles.)

A third reason could be how the prison is run. A series of **court rulings** over the years forced Pelican Bay to clean up all aspects of its operations, including security and staff disciplinary rules.

For example, Lt. Acosta proudly describes monthly random staff searches at Pelican Bay, something you hear little about elsewhere in the prison system. And the staff at Pelican Bay is more likely to write up inmates for misconduct than their counterparts at other facilities.

So is an expensive electronic net the solution for rampant cell phone smuggling behind bars, as Gov. Brown suggested?

Probably not, at least for Pelican Bay. As for the other prisons, the state is planning a **conference** next week to show off the latest in high-tech phone jamming gadgets.

Attachment 5

CALIFORNIA WATCH

California Watch

Founded by the Center for Investigative Reporting

PUBLIC SAFETY | DAILY REPORT

High-tech plan to block prison cell phones 'unwise,' report says

PRINT

May 11, 2012 | Michael Montgomery

oneword/istockphoto.com

A deal between Gov. Jerry Brown's administration and a private communications company to deploy special equipment to block the rampant use of contraband cell phones by state prison inmates is based on a technology that is unproven and could undermine public safety, according to a new report.

A study by the nonpartisan California Council on Science and Technology released this week raises "significant concerns" about plans to install "managed access technology" in the state's 33 adult prisons.

"Managed access as proposed will not do the job that the (California Department of Corrections and Rehabilitation) wants done," said Susan Hackwood, the council's executive director.

In April, corrections officials awarded a contract to build and manage a system to filter electronic communications at state lockups to Global Tel*Link, which already operates the traditional pay phones that inmates are allowed to use.

Department officials said the deal was "risk-free" for taxpayers because Global Tel*Link will pay for all equipment, installation and operating costs. Company officials expect to offset those costs through increased demand for the pay phones, which are available in most prison units and monitored by staff.

"This groundbreaking and momentous technology will enable CDCR to crack down on the potentially dangerous communications by inmates," corrections Secretary Matt Cate said, noting inmates "have used cell phones to commit more crimes, organize assaults on staff and terrorize victims."

But the 71-page study, produced at the request of four state senators, highlights a long list of potential problems with the proposed system, including:

- The technology as it is currently configured cannot capture 4G, Wi-Fi, MiFi, Skype, text messages or satellite transmissions.
- The technology cannot "triangulate" radio signals, thus limiting the effectiveness in identifying specific phones or users.
- For prisons located in or near populated areas, radio frequency "leakage" could interfere with regular cell phone communications, greatly reducing the "capability of public safety professionals to serve the community's needs or the general public's ability to access a 911 operator."
- The corrections department has not identified the size of the contraband cell phone problem, making it difficult to assess the effectiveness of the technology when it's deployed.
- Efforts by the state to test the system were "rudimentary and would, at best, constitute a proof of concept, not an acceptable operational pilot test."
- The only U.S. prison that has installed managed access technology, a facility in rural Mississippi, has encountered serious operational issues, and the system is not yet fully deployed.

Last year, 15,000 contraband cell phones were discovered at prisons and conservation camps around the state, up from 1,400 in 2007, according to corrections department data.

While the study affirms that cell phone smuggling in prisons is a serious problem, it recommends having private carriers identify and disable illicit phones and establishing airport-style screening systems "before investing millions in untested technology."

"A long-term statewide investment in this technology before it is proven is, in our opinion, unwise," the report's authors said in a May 8 **letter** to lawmakers.

Unlike many other states and the Federal Bureau of Prisons, California does not routinely search staff as they enter state lockups. (Visitors are required to pass through metal detectors.)

Some state officials have said they would like to impose airportlike security checks on staff at all state prisons.

But representatives from the prison guards union have said such a move would require the state to renegotiate its contract and would add to the time it takes correctional officers to get from their cars, or the prison gate, to their work stations. Union members are paid for this "walk time." Added walk time could cost the state millions, according to some analysts.

According to the study, staff at two facilities "were observed carrying duffel bags and soft-sided ice chests in and out of the prison without thorough screening."

Corrections spokeswoman Dana Simas said proposals requiring staff to submit to airport-style security screenings were "shortsighted" and failed to attack the root of the problem.

Simas said many of the concerns raised in the report were unfounded and managed access technology is backed by the Federal Communications Commission.

"It's risk-free," she said. "If it stops at least one criminal incident involving a cell phone from happening, it worked."

Attachment 6

SPECIAL REPORT

INMATE CELL PHONE USE ENDANGERS PRISON SECURITY AND PUBLIC SAFETY

OFFICE OF THE INSPECTOR GENERAL

DAVID R. SHAW
INSPECTOR GENERAL

STATE OF CALIFORNIA
MAY 2009

David R. Shaw, Inspector General

Office of the Inspector General

May 4, 2009

Matthew L. Cate, Secretary
California Department of Corrections and Rehabilitation
1515 S Street, Room 502 South
Sacramento, California 95814

Dear Secretary Cate:

Enclosed for your review and comment is the Office of the Inspector General's special report titled "Inmate Cell Phone Use Endangers Prison Security and Public Safety."

During our review, the Office of the Inspector General found that the possession of cell phones in prison facilities by inmates has increased significantly during the past three years and poses a threat to the safety and security of California's prison staff, inmates, and the general public. We also found that the growing number of cell phones in prison facilities is a direct indicator that the methods used by the California Department of Corrections and Rehabilitation to interdict their introduction or possession have mostly proven ineffective. The report contains the results of our review including four conclusions and ten recommendations.

If you have questions concerning this draft report, please contact Debra DeRosier, Deputy Inspector General, In-Charge at (916) 830-3680.

Sincerely,

David R. Shaw
Inspector General

cc: Scott Kernan, Chief Deputy Secretary, Adult Operations
Suzan Hubbard, Director, Division of Adult Institutions
Michelle Reboin, External Audits Coordinator

Enclosure

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Executive Summary

RESULTS IN BRIEF

- ***Cell phone usage between inmates poses a safety concern for staff, inmates, and the general public.***
- ***Seizure of cell phones by Department staff has increased ten-fold in three years.***
- ***Current physical and technological methods used by the Department to prevent the introduction and usage of cell phones are ineffective.***

According to numerous California Department of Corrections and Rehabilitation (Department) officials, the possession of cell phones and electronic communication devices by California's inmates is one of the most significant problems facing the Department today. Therefore, in February 2009, the Office of the Inspector General (OIG) began a review into the proliferation of contraband cell phones in California prisons and how their use puts Department staff, inmates, and the general public at risk. During 2006, correctional officers seized approximately 261 cell phones in the state's prisons and camps. However, by 2008, that number increased ten-fold to 2,811 with no end in sight. Inmates' access to cell phone technology facilitates their ability to communicate amongst themselves and their associates outside of prison, to plan prison assaults, plot prison escapes, and orchestrate a myriad of other illegal activity. In addition, these devices can provide an inmate unrestricted and unmonitored access to the Internet, whereby they can communicate with unsuspecting victims, including minors.

According to the Department, inmates are paying those involved in smuggling cell phones into California prisons between $500 and $1,000 per phone. There are currently no criminal consequences for the introduction or possession of cell phones in prison, making this activity merely an administrative violation. Furthermore, current security entrance procedures provide ample opportunities for staff and visitors to bring contraband into prison facilities without fear of discovery. Therefore, the introduction of cell phones into state prisons is a low risk, high reward endeavor. In addition to staff, other conduits for smuggling cell phones include visitors, outside accomplices, minimum support facility inmates working outside perimeter fences, and contracted employees.

In an effort to combat this growing threat, the Department is supporting legislation making it a crime to introduce or possess cell phones in California's prisons. Unfortunately, previous efforts to pass similar legislation have failed. In addition, technology that detects or jams cell phone signals is commercially available but potentially expensive and would require federal authorization to place into use. Other detection methods that have been used or are now in sporadic use, such as hands-on searches, metal detectors, and x-ray equipment, are more labor intensive and would require an increase in staffing and funding.

Recommendations

The dramatic rise in cell phones confiscated by Department staff is a clear indicator that the current methods used by the Department to interdict the introduction of cell phones are ineffective. To truly eradicate cell phone usage the Office of the Inspector General recommends that the Secretary of the Department take the following actions:

- Continue efforts to seek legislative change to make the introduction or possession of cell phones in all correctional facilities a criminal offense;
- Collaborate with other state and federal correctional agencies to lobby the Federal Communications Commission (FCC) for an exemption in using cell phone jamming devices;
- Request additional funds to purchase cell phone detection solutions and jamming devices (if subsequently approved by the FCC);
- Request resources and funds to conduct airport-style screening including metal and canine detection, and when necessary, manual searches of persons entering California prison facilities;
- Restrict the size of all carrying cases being brought into the secure areas of prisons by all persons including backpacks, briefcases, purses, ice chests, lunch boxes, file boxes, etc., so that they may be x-rayed;
- Require staff and visitors to place all personal items in see-through plastic containers;
- Request additional resources and funds to increase detection activities similar to "Operation Disconnect;"
- Ensure all quarterly contract vendor packages be shipped directly to prisons and correctional camps; and
- Implement an anonymous cell phone smuggling reporting system for employees and inmates.

Introduction

This report presents the results of the OIG's review into the growing problem concerning the use of cell phones by California's prison inmates. The OIG became aware of the seriousness of the issues addressed in this report after several California Department of Corrections and Rehabilitation (Department) employees expressed their fears and concerns with the substantial and increasing number of cell phones found in possession of inmates. This matter is of a vital and pressing concern to the Department and the State of California because these devices pose a serious risk to the safety of Department staff, inmates, and the general public.

The OIG conducted this review under the authority of California Penal Code section 6126, which assigns the OIG responsibility for oversight of the Department.

Background

In 2005, the Department discovered an increasing number of inmates with cell phones. In response, it started collecting statistical data regarding cell phone seizures from inmates and employees, and proposed legislation that would criminalize the introduction of cell phones on prison grounds. In three years, the number of cell phone seizures increased almost 1,000 percent—from 261 in 2006 to 2,811 in 2008. During this time, the Department proposed three legislative changes to criminalize the introduction of cell phones on prison grounds. However, its attempts were unsuccessful.

Faced with this escalating issue, the Department established a Warden's Advisory Group in late 2007. The group addressed the issue of cell phone interdiction by developing ideas for prevention and detection. The following three committees were formed to address specific concerns:

- Legislation – Create new policies, regulations, and laws that strengthen administrative sanctions against employees and inmates and propose legislation to make the introduction or possession of a cell phone in California prisons a felony. The committee also researched federal legislation regarding cell phone jamming.

- Security – Review policy and practices at all prison security entry points, and implement additional security practices (empty pockets, search all packages, walk through metal detectors). Although these security measures proved to be successful, they have not been fully implemented because of equipment and labor costs.

- Technology – Reestablish the Technology Transfer Committee to research cell phone jamming devices and detection techniques, such as x-raying all bags and lunch boxes. However, the federal government currently prohibits the use of the jamming devices that have proven to be the most effective in limiting or eliminating cell phone signals.

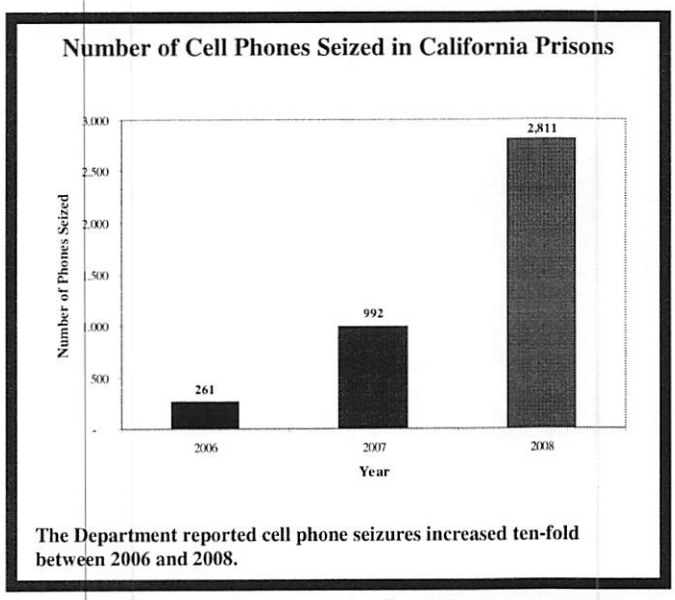
Parameters of Review

To develop the information contained in this special report, the OIG completed the following activities between February 2009 and April 2009:

- Reviewed the Department's *Adult Institutions, Programs, and Parole Department Operations Manual* (DOM);
- Reviewed the California Code of Regulations, Title 15, *Crime Prevention and Corrections, Division 3, Rules and Regulations of Adult Institutions, Programs and Parole, Department of Corrections and Rehabilitation*;
- Conducted facility visits and inspections;
- Interviewed key Department institutional, managerial, and executive staff;
- Reviewed documents and photographs produced by the Warden's Advisory Group and institutional investigative staff;
- Contacted other state correctional departments and legislative bodies; and
- Conducted research on MySpace and MocoSpace web sites.

Results of Review

The Department struggles to control cell phones



The Department reported cell phone seizures increased ten-fold between 2006 and 2008.

According to numerous Department officials, the possession of cell phones and electronic communication devices by California's inmates is one of the most significant problems facing the Department today. Cell phones provide inmates with the ability to communicate amongst themselves and their criminal associates outside of prison to coordinate criminal activity. OIG and Department staff believe that if inmate cell phone usage continues to escalate, activities such as the intimidation of victims and witnesses, assaults, narcotics trafficking, and hostage taking could proliferate throughout the state. In addition, simultaneous disruptive activities, such as escapes and riots could occur. For example, Department staff often referred to a 2006 Sao Paolo, Brazil riot where an inmate with a cell phone orchestrated a multi-prison and city riot that resulted in a four-day crime spree. The rioting occurred simultaneously in ten different prisons and on the streets of various cities over a span of three different states. Approximately 39 law enforcement officials and 41 civilians were killed.

Correctional investigative staff have found cell phones in every security level of California's prisons and juvenile institutions, from minimum to maximum-security housing units. The yearly increase in seized cell phones is a clear indicator that inmates and involved staff are routinely circumventing the Department's security measures. The Department also believes it is becoming commonplace for inmates serving substantial sentences to assault staff when they seize inmates' cell phones during routine searches. Left unchecked, cell phone usage facilitates illegal activities that pose a serious threat to the general public, as well as to prison staff, visitors, and other inmates.

Smuggling cell phones into prisons is a low risk and high reward enterprise

Currently, no criminal law prohibits the introduction or possession of cell phones in California prisons. Consequently, inmates' visitors and outside accomplices face minimal ramifications such as being barred from the prison. At present, the reduction of good behavior credits and other administrative sanctions are the only potential consequences

inmates face when found in possession of a cell phone. Regulations provide that if an inmate remains trouble-free for approximately 90 days, their previously reduced credits for a particular administrative sanction can be reinstated.

The ramifications faced by Department employees and contractors found providing cell phones to inmates are administrative sanctions up to termination of employment. However, retirement age employees may separate from state service and retire with full retirement benefits, receiving little if any consequence for their improper activity. Employees and contractors face minimal repercussions compared to the danger they create to other employees and inmates by supplying inmates with cell phones.

Department employees reported greed is the common link between staff and contracted employees who smuggle cell phones. Department investigative staff estimated inmates pay between $500 and $1,000 per cell phone, depending on the sophistication of the device. During one year, a correctional officer received approximately $150,000 for smuggling approximately 150 phones to inmates. The correctional officer in question was terminated, but there were no legal repercussions for his actions.

According to Department investigators, employees and contractors may also be coerced to smuggle cell phones into prison. Inmates maintain a watchful eye on correctional staff and eavesdrop on their conversations to target disgruntled staff members, or those who have marital or financial problems. Inmates engage the targeted employees in conversation eventually requesting and obtaining minor favors. In time, inmates approach these compromised employees and attempt to bribe or threaten them to smuggle cell phones and other contraband into the facility.

Various methods are used to smuggle and conceal cell phones

Contraband found in a typewriter: cellular phones, weapons, lighters, and tobacco.

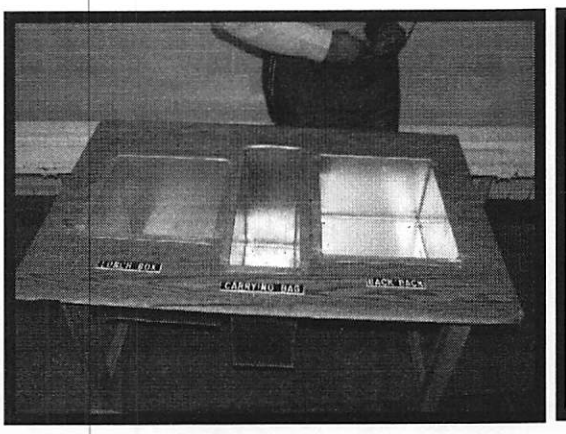
Inmates' friends and family members have developed a variety of methods to smuggle cell phones into prisons. One of the newest techniques is to circumvent security measures by intercepting quarterly packages[1] from state approved vendors, stuffing them with cell phones, resealing the box, and forwarding it to the inmate. These phones are concealed inside of DVD players, televisions, radios, typewriters, books, toilet paper, cereal products, and various other items. If the received package is from an approved quarterly vendor and appears intact, Department staff will deliver it to the inmate.

[1] Inmates are allowed to receive quarterly packages purchased by outside family members. There are restrictions on how much and what can be purchased. Approved items include food, clothing, hygiene items, shoes, televisions, and radios. Family members must purchase the items through approved vendors.

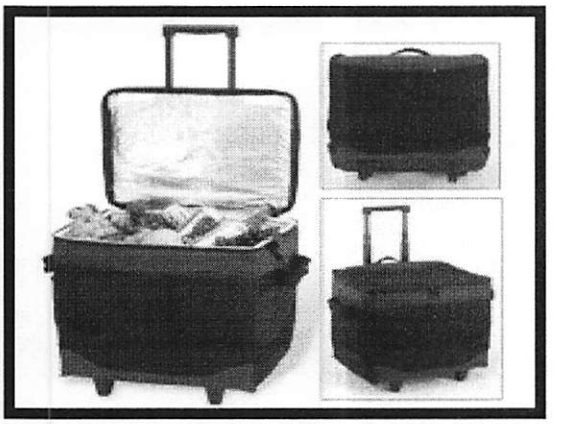
If there is evidence of tampering, or if information is received by correctional staff that an inmate is expecting a shipment of contraband, the package is scanned and the box opened by correctional officers. For example, in December 2008, staff at a prison discovered ten cell phones in one quarterly package.

Another method used by civilian accomplices, staff, and former inmates is to drop off contraband, including cell phones, outside the secured perimeter of the prison for later pick up by minimum security inmates. These inmates have access outside the secured perimeter when performing landscape, maintenance, and other related duties. Despite staffs' efforts, such as unclothed body searches and use of metal detectors, inmates are still successful in smuggling these cell phones into the prison.

It is becoming common for inmates to hide cell phones and chargers at their work sites so if discovered, they cannot be readily traced to them. Recently, a prison's Investigative Services Unit conducted a search of its Prison Industry Authority facility and discovered a large tactical bag containing 22.7 pounds of tobacco, 1.8 pounds of marijuana, 35 cell phones, and one glass smoking pipe.



LUNCH BOX ASSESSOR – Left to right Lunch Box (12" wide x 12" long x 12" deep); Carrying Bag (6" wide x 18.25" long x 14" deep); Backpack (12" wide x 15.25" long x 8" deep.)



Over-sized rolling lunch container used by staff. (Not to scale.)

Staff and contracted employees bring cell phones into prison utilizing several methods including hiding the small devices on their persons and in over-sized rolling lunch containers, briefcases, file boxes, and backpacks. Some institutions are now using container measuring devices, also known as lunch box assessors, to limit the size of personal items entering the prisons. If these items do not fit into the assessor, they are not allowed into the prison. Concealment on their person has proven the most effective method because staff are rarely searched due to the cost and logistics of searching hundreds of employees. In one incident, a female contractor placed seven cell phones in her bra in an attempt to smuggle them into an institution.

Once received, the compact size of cell phones allows inmates to easily conceal them from correctional staff in their cells or a common area on the facility grounds. On at least two occasions, correctional staff confiscated cell phones that resembled wristwatches from inmates. Inmates often hide cell phones in fans, light fixtures, books, mattresses, the walls of their cells, sinks, toilets, or shelving units.

Mobile-Media Player cell phone wristwatch confiscated from inmate.

Cell phone and adaptor connected to electric desk fan motor to charge battery.

No boundaries for inmate information capabilities

Today's wireless technology allows inmates to communicate clandestinely with one another, whether they are assigned to the same prison or in other facilities across the state. Inmates also use cell phones to effortlessly make tobacco, drug, and other contraband transactions, which create additional serious problems for the Department. A Department executive stated that inmates are communicating with one another in real time by calling or sending text messages providing information about correctional officers' movements and uploading pictures of secured areas within the prison. This type of information could be used to facilitate escapes, coordinate riots, and order assaults on staff and other inmates.

For example, one inmate told correctional staff he regularly used a cell phone to conduct inquiries on inmates recently admitted to his housing unit. Subsequently, he targeted those individuals for assault if they were members of a rival gang or if they were members of his gang not in good standing.

On another occasion, inmates used cell phones to plan their escape from a southern California prison. The escaping inmates used a cell phone to arrange to be picked up off prison grounds. They also received a text message from a fellow inmate inside the prison advising them that correctional officers were conducting an emergency count because of their escape. The inmates were subsequently apprehended and returned to custody, where they informed the correctional staff that their cell phones played an integral role in coordinating their escape.

A Department investigator's forensic analysis of a recently confiscated cell phone revealed it had been used to make phone calls, send text messages (logging approximately 635,000 minutes or 10,583 hours) and take pictures from within the prison. The cell phone images revealed the inmate had taken pictures from the window of his housing unit depicting staff's response to an emergency alarm.

The Department is also concerned that inmates are uploading pictures of correctional staff and sharing them with outside criminal associates, jeopardizing the safety of correctional officers and their families.

Inmates use web pages to lure unsuspecting victims

Inmates with technologically advanced cell phones, such as iPhones and Blackberries, are constructing web pages and communicating with individuals on heavily trafficked web sites such as MySpace and MocoSpace. Inmates are posting pictures of themselves and their fellow gang members on their web pages created while incarcerated and are soliciting members of the general public to communicate with them. To an untrained person, it may not be immediately obvious that the individual depicted is a California prison inmate. Therefore, inmates may take advantage of minors and other vulnerable individuals by soliciting items such as photographs, money, or personal information.

iPhones depicting web capabilities and satellite image of Folsom State Prison.

In an effort to corroborate the ease of which an inmate can communicate with cell phones, the OIG staff created a fictitious identity on the Internet, posed as a female, and corresponded with seven inmates housed in prisons throughout the state. We effortlessly located some of the prisoners' web pages depicting inmates in various forms of dress, and posing with fellow inmates. Using the undercover identity, our staff engaged in virtual dialogue with inmates who were using data-enabled cell phones from inside prisons.

Department's interdiction efforts

A successful approach tested by the Department's correctional officers to discover contraband cell phones is hands-on security screening. When correctional officers perform pat-down searches of visitors and employees and search vehicles driven onto prison grounds, cell phones and other contraband items are discovered before they are introduced into a prison.

In July 2008, the Department's Office of Internal Affairs (OIA), in coordination with prison investigative staff, executed a two-day surprise operation dubbed "Project

Disconnect." OIA agents and institutional staff conducted systematic searches of prison housing facilities of inmates suspected to possess cell phones. Prior to the two-day operation, OIA agents obtained confidential information of employees believed to be involved in smuggling cell phones to inmates. In addition, employees who acted suspiciously during the operation were stopped, questioned, and searched. One employee's vehicle was searched and fifty cell phones, labeled with inmates' names, were seized.

In order for this methodology to be an effective tool, the Department would have to employ enhanced security detection devices and manual searches, similar to those used at airports. Facility staff, contracted employees, and visitors would be required to remove their shoes, slide all their personal items through an x-ray machine, walk through a metal detector, and if necessary, submit to pat-down searches. Department management and investigative staff said this detection system is needed at points of entry to all facilities. According to the Department, this procedure would require additional staff. The Department has determined this security screening measure will cost approximately $28,000 at each entry point plus the cost of additional correctional staff to monitor the equipment and perform the searches.

Exploitation efforts

The systematic exploitation of technical data recovered from cell phones has long been a prime source of intelligence for law enforcement officials and is frequently used as evidence in criminal prosecutions. The Department has achieved some success in retrieving technical data, such as incoming and outgoing phone numbers, contact lists, email, and instant messages from seized phones. This information has assisted the Department in exposing illicit acts such as contraband trafficking and gang activity. However, the sheer number of cell phones recovered has limited the Department's ability to retrieve and exploit technical data from most seized cell phones. Furthermore, the Department does not have a consistent policy on processing seized phones, therefore much of the technical data stored on these phones is not recovered.

Previous legislative efforts were unsuccessful

Between 2006 and 2008, the California Legislature did not approve legislation to criminalize the introduction or possession of cell phones in state prisons. Recently, Senate Bill 434 was introduced and, if enacted, will make the introduction or possession of a cell phone in state prison a misdemeanor. Department employees believe cell phone criminalization would serve as a deterrent to most individuals.

In contrast, the Legislature did criminalize similar behavior in city and county custodial facilities. In October 2007, Penal Code section 4575 was added making the possession of a wireless communication device in a local correctional facility a misdemeanor offense.

National awareness and legislative changes

States around the country are implementing new entry security measures and/or enacting legislation that criminalizes the introduction or possession of cell phones into prisons. Florida, Nevada, and Texas have enacted laws that make it a felony to introduce or possess cell phones in a prison. Whereas, in Pennsylvania a similar offense is a misdemeanor. Because most of these laws were recently enacted, state officials reported that it is too early to gauge their effectiveness.

The states of Texas, Nevada, Florida, and South Carolina require all staff and visitors to undergo "airport style" security measures before entering prison grounds. Officials in these states consider this interdiction method effective at curbing cell phone smuggling at the point of entry. Additionally, the Correctional Corporation of America, which operates private correctional institutions across the United States and houses California inmates in the states of Arizona, Mississippi, and Oklahoma, requires all staff and visitors to its prisons to place all personal items in see-through plastic containers in an effort to prevent contraband from entering the prison.

South Carolina prison officials received FCC approval to test jamming technology that intercepts and terminates cell phone calls. South Carolina officials reported that the technology was very effective at jamming cell signals without interfering with cell signals in areas adjacent to the facility. However, the approval to test was for a limited time and the FCC has not granted approval to implement the use of jamming technology.

Prisons wrestle with funding, approaches, and federal regulations

Department personnel have met with representatives from various commercial vendors that have developed solutions to combat cell phone introduction, use, or possession in prisons. These systems include devices similar to global positioning systems that identify and locate different phone frequencies; devices that interfere with cellular frequencies; machines that detect metals, semiconductors, and radio frequencies; and canine units that sniff out cell phones.

One technology, broadly referred to as "jamming," interferes with a cell phone's radio frequency by transmitting a signal that confuses and overwhelms the cell phone. Another jamming technology exists that blocks incoming and outgoing cellular phone calls. While effective, jamming technology can only be used with the approval of the FCC, under strictly controlled guidelines. Radio frequency detection systems are also commercially available but are most effective when operated close to a transmitting cell phone. These devices cannot typically be used when searching large open areas such as housing units, libraries, kitchens, or prison yards. The cost of each detection device is approximately $15,000.

Canines can be trained to smell a unique element in cell phones and are now available to correctional staff. They range in cost from $300 to over $2,000, dependent upon their age and training. The dogs must be acclimated to a prison environment, can only be used for a few hours per day, and work with only one handler. The skill of handling a canine and

identifying the unique element is perishable, and both the canine and its handler must obtain constant training. The Department recently implemented a canine detection project at one of its prisons. Although Department executive staff report this project has shown preliminary success, they also said the Department does not have the funding to expand this venture.

Federal Bureau of Prison's success with screening systems

The federal Bureau of Prisons is also experiencing a rise in employees and visitors smuggling cell phones. To combat this activity they have implemented airport-style metal detection screening systems at all of their facilities. They now require all staff and visitors to remove their shoes, belts, and any metallic objects from their persons. Belongings are scanned and viewed through an x-ray machine and everyone must walk through a metal detector. This screening process requires three correctional officers and a supervisor during each shift change.

After some initial resistance from the correctional worker's union, the federal Bureau of Prisons overcame the opposition through negotiations pertaining to institutional polices and procedural changes. Once staff grew accustomed to the new entry screening process, the added time it took them to report to their workstations was minimized. Even though the federal Bureau of Prisons does not keep statistics on the number of cell phones seized in their prisons, they believe the screening process has been a good deterrent.

Conclusions

This report documents the pervasive problems inherent with inmates in possession of contraband cell phones. This review brought forth the following facts:

- Inmates are compromising the safety and security of staff, other inmates, and the general public by communicating via cell phones, text messages, and the Internet;
- Criminalizing the smuggling or possession of cell phones in California prisons should reduce the number of contraband cell phones;
- The Department is unable to effectively control the proliferation of cell phones with its current interdiction and detection methods; and
- Enhanced security methods are readily available to the Department, although state and local law enforcement agencies are barred by the FCC from using technology that interferes with cell phone signals.

Recommendations

The Office of the Inspector General recommends that the Secretary of the California Department of Corrections and Rehabilitation take the following actions:

- Continue efforts to seek legislative change to make the introduction or possession of cell phones in all correctional facilities a criminal offense;
- Collaborate with other state and federal correctional agencies to lobby the Federal Communications Commission (FCC) for an exemption in using cell phone jamming devices;
- Request additional funds to purchase cell phone detection solutions and jamming devices (if subsequently approved by the FCC);
- Request resources and funds to conduct airport-style screening including metal and canine detection, and when necessary, manual searches of persons entering California prison facilities;
- Restrict the size of all carrying cases being brought into the secure areas of prisons by all persons including backpacks, briefcases, purses, ice chests, lunch boxes, file boxes, etc., so that they may be x-rayed;
- Require staff and visitors to place all personal items in see-through plastic containers;
- Request additional resources and funds to increase detection activities similar to "Operation Disconnect;"
- Ensure all quarterly contract vendor packages be shipped directly to prisons and correctional camps; and
- Implement an anonymous cell phone smuggling reporting system for employees and inmates.

California Department of Corrections and Rehabilitation's Response

STATE OF CALIFORNIA —DEPARTMENT OF CORRECTIONS AND REHABILITATION

ARNOLD SCHWARZENEGGER, GOVERNOR

OFFICE OF THE SECRETARY

P.O. Box 942883
Sacramento, CA 94283-0001

May 1, 2009

Mr. David R. Shaw
Inspector General
Office of the Inspector General
P.O. Box 348780
Sacramento, CA 95834-8780

Dear Mr. Shaw:

This letter is being submitted in response to the Office of Inspector General's report titled ***Special Report: Inmate Cell Phone Use Endangers Prison Security and Public Safety,*** dated May 2009. In this special report, you identify the possession of cell phones and electronic communication devices by prison inmates as one of the most significant problems facing the California Department of Corrections and Rehabilitation. We agree with your assessment. As your report sets forth, the proliferation of contraband cell phones in our prisons puts staff, inmates and the general public at risk. Moreover, the problem appears to be growing worse, with the Department finding more cell phones inside of our institutions each year.

We appreciate your recognition of our success in some of our efforts to interdict cell phones. Your report, for example, applauds our work in performing searches of visitors and staff, and also recognizes the launching of our canine detection project at one of our prisons, which is showing some early signs of success. At the same time, we agree with the recommendations in your report that more efforts are necessary to combat this threat. Legislation that would criminalize the possession of cell phones inside of our prisons, for example, is critically necessary. We are committed to evaluating all of our options in order to eradicate cell phones within our prisons.

We appreciate your support in our efforts to overcome this significant problem. If you should have any questions or concerns, please call my office at (916) 323-6001.

Sincerely,

LEE E. SEALE
Deputy Chief of Staff

Attachment 7

Allowing phones in the cells might be a sound call

A former inmate says the devices should be regulated, not banned.

March 26, 2011 | Sandy Banks

When the nation's most notorious mass murderer has a phone under the mattress in his cell, it's hard to ignore the fact that security has broken down in California's prison system.

And it's logical to finger prison guards, especially after a state investigation discovered that a guard made $150,000 in one year smuggling phones to prison inmates, and another had 50 phones in his car in a prison parking lot, labeled with the names of convicts.

But cracking down on the most likely culprits isn't as easy as it sounds. If we try to halt the flow of phones by making guards go through tedious and time-consuming security checks, like airport passengers, we have to pay them for the hours that will take, under an arcane labor deal called "walk time."

That would cost the state millions of dollars, according to a story by Times reporter Jack Dolan on legislative efforts to approve criminal sanctions.

But abolishing "walk time" isn't the solution. The provision is a staple of contracts in law enforcement — called "pre- and post-shift activities" in some, and "donning and doffing" in others.

It's rooted in federal labor laws that compensate employees for work-related tasks they must do before or after their shifts — like travel through locked doors and across prison yards to posts in isolated gun towers.

For California prison guards, that translates to an extra hour of pay each week. Thirty years ago, "we cut a deal with the union," said Craig Brown, who was part of the state's negotiating team back then. "We said, 'We'll pay you for 12 minutes every day, whether you walk a minute or a half hour.'" It wasn't considered a perk back then, he said, but a way to keep California on a budget.

Now Brown is on the other side, as chief lobbyist for the union of prison guards. And he bristles at the notion that guards are the bad guys in the cellphone scandal.

"They don't just come in with employees, they come in by mail, they come in by visitors, they come in over the fence," he said. "When an inmate wants a phone, somebody is going to supply him."

Sure. But according to lawmakers, that "somebody" is most likely a prison employee.

Brown, and others before him, said phones in the hands of inmates jeopardize the safety of guards. Inmates have tried to organize institutional riots, escapes and prison crimes.

"The 90-plus percent of our good officers who want these things to run safely want to kick the ass of the guy that brings the cellphones in, because it endangers them," Brown said. But they're not willing to spend unpaid time lining up to be herded through metal detectors checking them for contraband phones.

Nor, it seems, are they willing to snitch on colleagues selling phones to convicts. "It's a difficult individual decision," he said. "Some officers would probably turn their head and pretend they didn't see it. And some officers would try to solve the problem.

"Most of them just want to go to work, do their jobs and go home safe."

Which is probably true for most of the inmates.

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If I take Craig Brown's word that the typical cellphone smuggler isn't a corrections officer, then I might as well take Najee Ali's word that the typical inmate with a contraband cellphone isn't Charles Manson texting his followers.

Ali, a high-profile activist in Los Angeles' black community, came home from prison last week. He spent two years behind bars for trying to bribe a witness in a criminal case involving a family member. He served his time at two prisons, Tehachapi and Avenal, in a medium-security dormitory "with three guards watching 1,000 inmates."

And he kept in touch with folks back home on a BlackBerry he acquired behind bars, purchased for $500 from an inmate "who had a relationship with a guard."

Inmate cellphones, in Ali's view, are an "open secret" and a prison-tolerated management technique, he said. They help tamp down tensions among antsy convicts in overcrowded prisons. "If you have half the guys in a dorm with cellphones, that's 500 guys who are pacified and not a threat to anyone's safety."

The idea of Manson with a flip phone fuels our outrage. "But for every person doing something illegal, there are hundreds of guys who just want to talk to their families and keep in touch with what's going on back home," he said. "...They're talking to their mamas, their wives, looking at photos, checking on their Facebook pages."

Guards look the other way at the black-market deals, he said. A state study showed that a prison employee can make $1,000 on a smuggled phone. "With pay cuts, furloughs, it's tough for them," Ali said. "The same guards who are bringing in the cellphones are the ones now acting all up in arms.

"At the end of the day, if the guards did not want us to have those phones, we would not have them," Ali said. "They know it makes us less of a threat, to them and to each other."

The worst-case scenarios are pretty bad: inmates on clandestine phones planning escapes, arranging drug deals, ordering hits on enemies.

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But what Ali wanted to talk about was far less troubling: "You share your cellphone with other inmates, that eases a lot of tension throughout the building.

"It brought a sense of normalcy to my life. If we're being real about this, it's too far gone to stop it."

Instead of metal detectors or high-tech scrambling systems, we ought to think about regulating prisoners' access to cellphones, he said. Why not let some convicts have access — maybe minimum-security inmates or those with good prison behavior records?

"You could restrict the hours, like maybe they could only use them from 7 to 9. Or create a process for handing them out, like you check out a library book," he said.

Ali's idea could be a tool to promote order in our overcrowded prison system. And it might make honest men out of those prison guards who are drawn, like criminals, to a black market system.

sandy.banks@latimes.com

Attachment 8

Former Los Angeles Sheriff Found Guilty Of Obstructing FBI Prison Probe

March 15, 2017 4:54 PM

LOS ANGELES (AP) – Former Los Angeles County Sheriff Lee Baca was convicted Wednesday of obstructing an FBI investigation into corrupt and violent guards who took bribes to smuggle contraband into the jails he ran and savagely beat inmates.

The trial cast a dark shadow over a distinguished 50-year law enforcement career that abruptly ended with his 2014 resignation from the nation's largest sheriff's department as the corruption investigation spread from rank-and-file deputies to his inner circle.

In addition to tarnishing his reputation as a policing innovator and jail reformer, the case threatens to put Baca, 74, who is in the early stages of Alzheimer's disease, behind bars for up to 20 years.

"I am a faith-based person. My mentality is always optimistic," Baca said outside court. "I look forward to winning on appeal."

He was not in custody ahead of a Monday hearing to discuss his sentence for obstruction of justice, conspiring to hinder the probe and lying to investigators.

Baca appeared to have escaped the fate of more than a dozen underlings indicted by federal prosecutors until a year ago, when he pleaded guilty to a single count of making false statements to federal authorities about what role he played in efforts to thwart the FBI.

A deal with prosecutors called for a sentence no greater than six months. When a judge rejected that as too lenient, Baca withdrew his guilty plea and prosecutors hit him with two additional charges of conspiracy and obstruction of justice.

A jury last year deadlocked 11-1 in favor of acquittal on just the obstruction and conspiracy counts. Prosecutors then refiled the case.

The federal probe began in 2011 when Baca's jail guards discovered an inmate with a contraband cellphone was acting as an FBI mole to record jail beatings and report what he witnessed.

Word quickly reached Baca, who convened a group to derail the investigation and ferret out more about what the FBI was focused on, prosecutors said.

"He lied to cover up his crimes," Acting U.S. Attorney Sandra R. Brown said after Baca's conviction.

His subordinates hid the FBI informant from federal agents by moving him between different jails and booking him under fake names. Other department members tried to intimidate his FBI handler by threatening to arrest her.

Defense attorney Nathan Hochman didn't dispute those facts but told jurors that prosecutors had presented no evidence Baca gave orders to obstruct the FBI.

Hochman was frustrated in efforts to present evidence of Baca's diagnosis of Alzheimer's.

There was no evidence Baca suffered from the condition during efforts to impede the FBI in 2011, and Judge Percy Anderson said mention of it could harm the prosecution by swaying jurors to sympathize with the ailing former lawman and was speculative.

The issue might have arisen if Baca testified, but he sat silent throughout the proceedings.

Hochman only vaguely hinted at the issue, reminding jurors that Baca was 71 at the time of his interview with prosecutors and wasn't lying but had forgotten details.

"The jury is only as good as the evidence it gets to consider," Hochman said outside court. "Here the jury did not get to consider all the evidence, but the appellate court will. We look forward to prevailing on appeal."

Outside court, Baca thanked his legal team, his wife and his friends and supporters.

"It's just a privilege to be alive," said Baca, who headed the sheriff's department for 15 years before his resignation. "I feel good."

Associated Press writer Andrew Dalton contributed to this story.

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Attachment 9

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Stopping cell phones from getting into NJ prisons

By David Matthau April 17, 2017 3:09 AM

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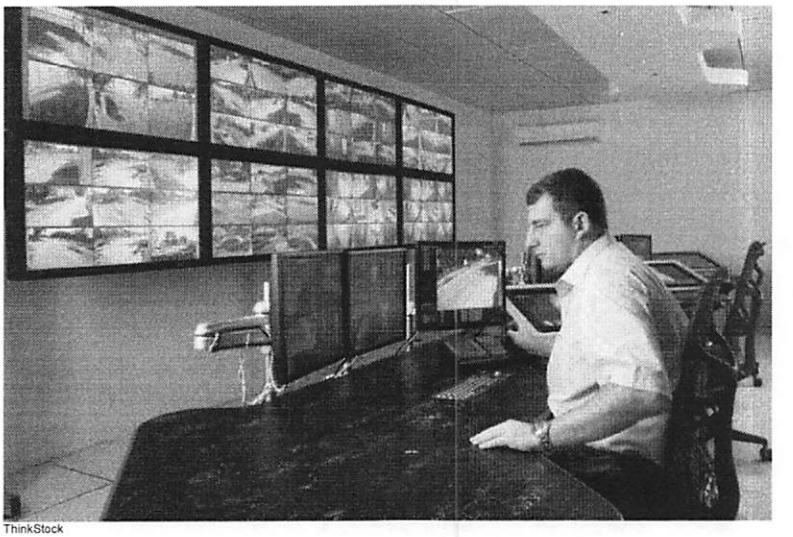

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Not too long ago the state Department of Corrections routinely discovered hundreds of cell phones that had been smuggled into different prisons every year.

But that was then and this is now.

"Since 2010, a number of steps have been taken to correct the problem and cell phone smuggling has been dramatically cut. In 2016, there were a total of 14 that were found throughout the year and in the first three months of 2017 there was only one," said Gary Lanigan, commissioner of the Department of Corrections.

He said four different steps have been taken to stop cell phones from getting into corrections facilities.

"We hardened all of our entry points, we enhanced our searches, we referred all cases of contraband cell phones to the prosecutor, and we enhanced the inmates' ability to communicate with their family and loved ones," he said.

According to the commissioner, no one is allowed to bring a cell phone into a corrections facility, not even him. Phones are considered contraband and anyone caught with one could be charged with a third-degree crime.

"When everyone comes into a facility they do go through scanners and they are searched, all the property is searched, all the mail that comes into our facility is scanned," he said.

"In addition we do have specially trained canines, which will hit on cell phones, we do have other detection equipment including cameras, and we have specialized search teams that do both random and targeted searches of the facility."

Even with all of these steps being taken, however, prisoners are still trying to get their hands on cell phones.

"They will try to convince a loved one to bring it through on a visit. They will try to identify a corrupt staff member to introduce it as contraband," said Lanigan, even hide it in "disturbing parts of their body."

"It's just disappointing what people will try to do."

Seven years ago, the cost of a 15-minute call in a jail was $15, but "today all calls are 4 cents a minute — so there's no legitimate

reason for an inmate to have to use a cell phone to make a phone call."

He said there has been a very strong effort in this regard because cell phones behind bars, in the hands inmates, are every bit as dangerous as a weapon.

"They can continue to coordinate illegal activity out in the streets, sale of drugs, gang activity, intimidation of witnesses. They can coordinate escape activity," he said.

"Cell phones are still an issue of concern but we've come a very long way."

You can contact reporter David Matthau at David.Matthau@townsquaremedia.com.

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Attachment 10

PR Newswire
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Securus Technologies Discusses Future of Inmate Communications and Security

Future Incarceration Experience Includes Immediate Communications, Higher Security, Lower Pricing, More Services, Lower Recidivism Rates, and a More Valuable Incarceration Experience for Inmates and All Society

Securus Provides Many Products of the Future - Today

NEWS PROVIDED BY
Securus Technologies, Inc. →
21 Mar, 2017, 15:48 ET

DALLAS, March 21, 2017 /PRNewswire/ -- Securus Technologies, a leading provider of civil and criminal justice technology solutions for public safety, investigation, corrections and monitoring, discussed in detail the future of inmate communications and security, and how we are driving benefits to inmates, friends/family, corrections and law enforcement, and all of society.

The future environment for a positive incarceration experience likely includes these directional attributes:

- Reduced pricing for inmates;
- Increased products for inmates;
- Greater ease of use of all products;
- Additional video calling;
- Tablet and smart device penetration at 100%;
- Increased usage of all products by inmates;
- Improved education opportunities for inmates;
- Improved job prospect opportunities for inmates;
- Reduced/improved recidivism rates;
- 7 x 24 x 365 communication opportunities;
- Better healthcare defined as faster and higher quality healthcare for inmates;
- Immediate communication opportunities using multiple devices, some Securus' and some not – but all with security features that corrections and law enforcement require to keep all society safe.

"Just as communications have changed quite dramatically over the last ten (10) years for the general public, communications will positively influence what happens to the incarceration experience over the next ten (10) years," said Richard A. ("Rick") Smith, Chief Executive Officer and Chairman of Securus Technologies. "We can use the products that we have and will develop more products to save lives and prevent and solve crimes, and to make significant progress on the future corrections environment highlighted above.

"In the future, once an inmate is booked into a prison or jail, they will be able to use our device OR THEIR DEVICE to communicate with approved individuals, with secure and recorded voice, video, text or email messages with virtually instant funding of their accounts – over a centralized platform with a low per minute rate, with access to databases to provide education, jobs, books, songs, medical attention, legal resources, bail bondsmen, commissary – any and all things that an inmate would need. And we are relatively close to providing everything that I just indicated today," commented Smith.

"Allowing inmates to use their own mobile devices that they understand and with their contact lists in conjunction with our Wireless Containment Solutions (WCS) bandwidth capture devices allows them access to important telephone numbers and texting addresses so short term facilities can get them booked and bailed out in a short(er) period of time – while Securus does the necessary recording and monitoring of appropriate communications. This would stimulate usage and stimulate communications of all types – but in a safe/controlled way that facilities will accept to keep all parties safe. Stimulating usage here also includes access to safe data and safe databases so books, video, audio, law libraries, visitation schedules, facility rules, forms, religious texts, music, movies, healthcare schedules/resources, job finders, and more, and more, and faster, and safer. We deliver all of this to some inmates today – with the objective of delivering these benefits to all in the future at lower rates. We have the technology, we have the people, we have the products – and we will use these to benefit everyone," concluded Smith.

ABOUT SECURUS TECHNOLOGIES

Headquartered in Dallas, Texas, and serving more than 3,450 public safety, law enforcement and corrections agencies and over 1,200,000 inmates across North America, Securus Technologies is committed to serve and connect by providing emergency response, incident management, public information, investigation, biometric analysis, communication, information management, inmate self-service, and monitoring products and services in order to make our world a safer place to live. Securus Technologies focuses on connecting what matters®. To learn more about our full suite of civil and criminal justice technology solutions, please visit SecurusTechnologies.com.

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Attachment 11

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
THE HARRIMAN STATE CAMPUS – BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

ANDREW M. CUOMO
GOVERNOR

ANTHONY J. ANNUCCI
ACTING COMMISSIONER

July 8, 2013

Mr. Gregory V. Haledjian
Attorney-Advisor
Pricing Policy Division – Wireless Competition Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Mr. Haledjian:

The New York State Department of Corrections and Community Supervision (DOCCS) welcomes the opportunity to contribute to the Federal Communications Commission's ***Workshop on Reforming Rates for Inmate Calling Services***. The Department has considerable experience within this area and offers the following information for the Commission's consideration.

In 2007 DOCCS eliminated its commissions on inmate calls. Prior to that, DOCCS received a 57.5 percent commission on every completed call. The cost of the call included a connection fee ($1.28 per call) and a per-minute charge ($.16 per minute), resulting in an average 20 minute call costing the family $4.48.[1] These fees became the source of acrimony between the Department and inmate advocacy groups and the focus of a class action lawsuit against the Department and the State of New York.

Amidst heavy scrutiny by the offender advocacy groups regarding the cost of inmate calling, in 2007 the Department worked closely with the Governor and Legislature to pass an inmate calling bill (NY Correction Law 623) that requires the per/minute cost of a call to be the preeminent focus of our inmate phone contract. The statute indicates that "The department shall not accept or receive revenue in excess of its reasonable operating cost for establishing and administering such telephone system services." The statute further requires that the "department {can} establish rules and regulations or departmental procedures to ensure that any inmate phone call system established by this section provides reasonable security measures to preserve the safety and security of each correctional facility, all staff and all persons outside a facility who may receive inmate phone calls."

These provisions of the statute prohibit the Department from collecting commissions from the system, but they do allow the Department to roll its administrative and security expenses (call listening and investigations for example) into the cost of the call. Although the Department is not at present attaching these operational costs to the per-minute price of the call, it may add them in the future.

Today the cost of a 20-minute call for an inmate in DOCCS is $.96. The call rate includes a flat $.048 per minute charge, for both local and long distance calls, with no connection fee.[ii]

The impact of the rate change has been significant. The number of completed calls has risen steadily from 5.4 million in 2006, to what we are projecting to be over 14 million in 2013. It should be noted that this increase appears to have stabilized. Interestingly, the average call duration remains at 20 minutes (see endnote i below).

Operationally, the Department has experienced both benefits and challenges from this approach. The elimination of the commission created an immediate $20 million annual revenue short-fall in the Department's operating budget that had to be addressed. The commission revenue had been used to pay for inmate services related to health care and family visitation. This was addressed by executive budget increases and the elimination of some inmate services.

Clearly, lower phone rates have made calling a more attractive option for inmates as the numbers previously provided indicate. However, it has also made control of the phones a strategic option for gangs and unauthorized groups working inside DOCCS facilities who have sought to extort other inmates by attempting to control access to the phones. This requires vigilant monitoring by DOCCS intelligence staff and at times, intervention by DOCCS security staff.

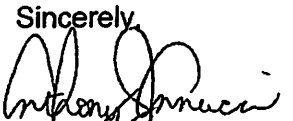
Lower call rates have had benefits for the inmate population. The Department believes that its low calling rates have helped contribute to family reunification, and at less than a nickel per minute, the Call Home Program is among the most cost-effective family reunification options that we offer. Lower rates have also contributed to an improved relationship between the Department and the offender advocacy groups.

The Department believes that a lower calling rate has also contributed to a lower rate of illicit cell phone use by inmates in New York. In 2012, the Department confiscated less than 100 cell phones, compared to over ten thousand annual seizures in comparably-sized correctional systems.[iii]

In conclusion, the Department's experience indicates that inmate calling rates can be reduced substantially if states eliminate their commissions on the calls, and structure competitive bidding processes that ensure that the cost of the call is among the primary attributes of their inmate calling contracts. Moreover, there are significant benefits that can be attributed to lower calling rates that seem to outweigh the operational challenges that also attach to the process.

Thank you for providing the Department with the opportunity to contribute to your Workshop and we look forward to seeing the results of your process.

Sincerely,



Anthony J. Annucci
Acting Commissioner

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[i] 20 minutes is the average length of a call completed on the DOCCS system. This was true in 2006 and is still true in 2013.

[ii] International calling is done under a separate system, per minute rates are higher and are based upon long distance calling rates under a separate state contract. International calling is less than 1 percent of DOCCS inmate call volume.

[iii] Phone rates are a contributing factor, but so too are good security measures for both visitation and perimeter security, adequate training and compensation for line staff, and a zero tolerance policy that does not allow anyone to possess a cell phone inside a New York State prison.