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Before the

FEDERAL COMMUNICATIONS COMMISSION AUG - 1 2007
Washington, DC 20554

FILED/ACCEPTED

Federal Communications Commission
Office of the Secretary

In the Matter of)

Petition of the GEO Group, Inc. for Forbearance)
from Application of Sections 302, 303, and 333)
of the Communications Act of 1934, as amended,)
and Sections 2.803 and 2.807 of the Commission's)
Rules to Allow State and Local Correctional Authorities)
to Prevent Use of Commercial Mobile Radio Services)
at Correctional Facilities)

Docket No. _____

PETITION FOR FORBEARANCE

Mitchell F. Brecher
GREENBERG TRAURIG, LLP
800 Connecticut Avenue, NW
Suite 500
Washington, D.C. 20006
(202) 331-3100

Attorney for The GEO Group, Inc.

July 31, 2007

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PETITION FOR FORBEARANCE

The GEO Group, Inc. ("GEO"), pursuant to Section 10 of the Communications Act of 1934, as amended,¹ hereby petitions the Commission to forbear from application or enforcement of Sections 302, 303 and 333 of the Communications Act of 1934, as amended² (the "Act"), and Sections 2.803 and 2.807³ of the Commission's rules, and such other provisions of the Act and the rules as necessary to allow state and local correctional authorities and those entities which operate correctional facilities pursuant to contracts with state and local correctional authorities to utilize devices to prevent the use of commercial mobile radio service equipment, including cellular and personal communication service telephones, as well as wireless devices used to send and receive data, from being used at correctional facilities and jails. As will be explained in this petition, exercise of the Commission's forbearance authority as requested herein will be fully consistent with the standards for forbearance codified at Section 10 of the Act. More

¹ 47 U.S.C. § 160.

² 47 U.S.C. §§ 302, 303, and 333.

³ 47 C.F.R. §§ 2.803, 2.807.

importantly, the relief requested by this petition will enable state and local correctional authorities to take important steps to enhance security at correctional facilities and jails, to protect inmates, employees who work at correctional facilities, and members of the general public from threats to their personal safety, and to promote law enforcement and crime prevention efforts. Throughout the petition, references to state and local correctional authorities include those governmental departments and agencies responsible for operation of correctional facilities and jails as well as private entities, including GEO, which operate correctional facilities and jails pursuant to contracts with state and local correctional authorities and subject to applicable state and local corrections laws, ordinances, and policies.

Introduction

GEO is a major operator of correctional facilities and jails in the United States and around the world. It operates facilities in New York, Florida, Mississippi, Pennsylvania, Virginia, Indiana, North Carolina, Illinois, Louisiana, Idaho, Texas, Oklahoma, Arizona, Colorado, California, New Mexico, and Washington. Approximately 50,000 inmates are housed in GEO-operated facilities. GEO operates these correctional facilities and jails pursuant to contracts with Federal authorities such as the Department of Justice's Federal Bureau of Prisons, the United States Marshal Service, and the Department of Homeland Security's Immigration and Customs Enforcement, as well as with state and local governmental corrections authorities. In its capacity as one of the nation's leading private managers and operators of correctional facilities, GEO works closely with its Federal, State, and local governmental partners to manage and operate these facilities in conformance with each jurisdiction's laws, correctional policies and objectives, and to protect the safety and security of the inmate populations, correctional facility personnel, and the general public.

Improper use of wireless devices, primarily cellular telephones and data transmission devices, has become a major safety and security problem at many correctional facilities and jails.⁴ Virtually all correctional authorities, including those for whom GEO manages and operates correctional facilities and jails pursuant to contract, have rules which specifically prohibit bringing such phones and other devices into the correctional facilities and jails or possessing such phones and other devices by inmates in correctional facilities and jails.⁵ Some states have enacted laws which make it a felony to bring cell phones into state correctional

⁴ Recent news accounts have documented the problems associated with inmate possession of cell phones in state and local correctional facilities and jails. See for example, "State Struggles To Thwart Inmates' Cellphone Use," Los Angeles Times, June 26, 2007 (citing Associate Director for California Department of Corrections and Rehabilitation stating "[Cell phone possession by inmates] is a tremendous problem. Last year they [prison officials in California] confiscated over a thousand cell phones, including BlackBerrys. It breaches our security. It allows the inmates to conspire with people on the street to commit crimes."); "Prisons Are Battling Cell Phone Smugglers / As More Devices Wind Up In The Hands of Inmates, State Officials Raise Security Fears," Houston Chronicle, April 30, 2006 (explaining that cell phones are becoming a contraband problem in prisons, causing state correctional officials concern that the cell phones may be used to plot escapes or conduct criminal business from within Texas prisons.); "Contraband Combat; Cell Phones, Pot, and Knives Are Found By County Jail Shakedown Teams," Miami New Times, April, 2005 (explaining how the Miami-Dade Department of Corrections and Rehabilitation has found, as a part of cellblock searches inside its five primary jails, drugs, weapons, and cell phones.)

⁵ See, e.g., 18 U.S.C 1791 (a); 18 Texas Statutes and Codes Annotated, Chapter 38, § 38.11(a)(3) - (4); Tex. [Penal] Code Ann. § 38.11(a)(3)-(4) (2007); 14 Louisiana Revised Statutes, Chapter 2, Part V § 402, E(7); La. Rev. Stat. Ann. § 14:402(E)(7) (2007); Oregon Administrative Rules Compilation, 29-016-0100(2) (2007); Or. Admin. R. 29-016-0100(2) (2007); 720 Illinois Compiled Statutes 5/31A-1.1(a); 720 Ill. Comp. Stat. 5/31A-1.1(a) (2007); Michigan Compiled Laws, 800.283a, § 3a (2006); Mich. Comp. Laws § 800.283a, § 3a (2006); 18 Pennsylvania Statutes § 5123 (c.2) (2007); 18 Pa. Cons. Stat. § 5123(c)(C.2) (2007); Virginia Code § 18.2-431.1; Va. Code Ann. § 18.2-431.1 (2007); Colorado Revised Statutes 18-8-204.2 (2007); Colo. Rev. Stat. § 18-8-204.2 (2007). Similarly, legislation has been recently introduced in the State of Wyoming Legislature which would make possessing cell phones in a penal institution or correctional facility a crime (Bill HB 0189 By Representative Olsen); and the State of Maryland enacted in May 2007 a law prohibiting a person from knowingly supplying an inmate or an inmate possessing a cell phone in a place of confinement. Annotated Code of Maryland § 9-417 (2007); Md. Code. Ann., [Crim. Law] § 9-417 (2007).

facilities.⁶ Despite the best efforts of correctional authorities and facilities operators and managers, these prohibitions nevertheless remain unenforceable. No matter what rules are implemented by correctional authorities and what precautions are taken, cell phones somehow find their way to the inmate populations. Inmates have used illegally-obtained cell phones to intimidate witnesses as well as law enforcement and judicial personnel, to operate criminal enterprises from behind prison walls, to plan escapes, to extort money, and to generally threaten the safety and security of other inmates, correctional facility personnel and members of the general public.

It has been GEO's experience that implementation of rules prohibiting cell phone use by inmates is not sufficient to prevent such usage. Attached to this petition are three affidavits. The first affidavit (attached hereto as Attachment 1) is the affidavit of Lopher Jenkins, Warden for the Marshall County Correctional Facility in Holly Springs, Mississippi a correctional facility operated by GEO pursuant to a contract with the State of Mississippi Department of Corrections. The second affidavit (attached hereto as Attachment 2) is the affidavit of Michael Gannon, Administrative Captain of the George W. Hill Correctional Facility in Thornton, Pennsylvania -- a facility operated by GEO pursuant to a contract with the Delaware County, Pennsylvania Board of Prison Inspectors. The third affidavit (attached hereto as Attachment 3) is the affidavit of John R. Campbell, Warden for the Val Verde Correctional Facility in Del Rio, Texas -- a facility operated by GEO pursuant to a contract with Val Verde County, Texas. These affidavits describe in detail the difficulties encountered by operators of correctional facilities in attempting to prevent unlawful use of cell phones and other wireless devices at those facilities, and the

⁶ For example, in May 2007, a law was enacted in Nevada making it a felony to bring unauthorized cell phones into prisons and other state detention facilities in that state. See Nevada Revised Statutes, 209.417 1 (2007). See also, Virginia Code § 18.2-431.1;

resulting dangers to security, law enforcement, and public safety from such unlawful but unpreventable use. The circumstances described in the Jenkins, Gannon, and Campbell affidavits are illustrative of the situations which exist regarding cell phone and other wireless device usage at correctional facilities throughout the United States.

As described in Warden Jenkins,' Captain Gannon's, and Warden Campbell's affidavits, in order to ensure that cell phones and other wireless devices are not used within correctional facilities and jails despite those legal prohibitions, operators of those facilities need to be allowed to interfere with such usage (Jenkins Affidavit at ¶ 17; Gannon Affidavit at ¶ 15; Campbell Affidavit at ¶¶ 16, 17). Devices which create interference or "jamming" of cell phone signals at correctional facilities may be the only effective means to prevent such usage and to protect the correctional facilities community and the public-at-large from the dangers inherent in their improper and uncontrolled usage. GEO seeks only to allow corrections authorities to interfere with cell phone signals on the premises of corrections facilities and jails. It has no intention of utilizing devices which would interfere with cell phone reception at any locations other than the premises where correctional facilities and jails are located, and it would accept a condition on grant of this petition specifically limiting the authority to the corrections facilities premises themselves.

The Relevant Statutes and Rules

Section 333 of the Act prohibits any person from willfully or maliciously interfering with or causing interference to any radio communications of any station licensed or authorized under the Act. Section 302(a) of the Act authorizes the Commission to make reasonable regulations governing the interference potential of devices which emit radio frequency energy by conduction or other means in sufficient degree to cause harmful interference to radio communications. In lay terms, the Act empowers the Commission to adopt reasonable regulations to prohibit

'jamming' devices. Section 302(c) of the Act contains certain statutory exceptions to that directive. The relevant exception involves equipment and systems for use by the "Government of the United States or any agency thereof."⁷ Conspicuously absent from Section 302(c) is a comparable exception for state and local governments.⁸

The Federal government exception to the prohibition against jamming devices is also codified at Section 2.807 of the Commission's rules. Specifically, Section 2.807(d) provides that the non-interference requirements of Section 2.803 of the rules shall not be applicable to:

Radiofrequency devices for use by the Government of the United States or any agency thereof: *provided, however*, that this exception shall not be applicable to any device after it has been disposed of by such Government or agency.⁹

As noted, Section 302 of the Act and Section 2.807 of the rules authorize the Commission to allow devices for jamming of radio signals by the Federal government, but not by state and local governments. By this petition, GEO respectfully urges the Commission to exercise its statutory authority to forbear from application or enforcement of that limitation to the Federal government, such that state and local government correctional agencies and departments may authorize jamming of cellular telephone signals on the premises of correctional facilities. It also requests that the Commission forbear from applying the prohibition against willful interference with radio communications to the extent necessary to allow state and local correctional authorities to interfere with use of cell phones at such correctional facilities in circumstances where those correctional authorities determine that such interference with cell phone usage is necessary to protect the safety of inmates, correctional facility and jail employees

⁷ 47 U.S.C. § 302(c).

⁸ Such an exception for state and local governments would allow state and local governments as well as those private entities which operate correctional facilities and jails pursuant to state and local government contracts to interfere with use of cell phones and other wireless devices at the premises of those correctional facilities and jails.

⁹ 47 C.F.R. § 2.807(d).

and the general public, or where such interference is deemed necessary to prevent the occurrence of unlawful conduct.

The Commission's forbearance authority is codified at Section 10 of the Act. Section 10 states, in relevant part, as follows:

Notwithstanding section 332(c)(1)(A) of this Act, the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services, in some or all their geographic markets¹⁰

By its terms, the Commission's forbearance authority extends to all telecommunications services (including commercial mobile radio services), as well as to carriers and classes of carriers, and that authority shall be exercised whenever the three-pronged forbearance standard has been met. Thus, the Commission not only is empowered to forbear from applying the Federal government-only exception to the prohibition against jamming of cell phones and other wireless devices so as to allow state and local government correctional agencies and departments to do so, but it must do so if it determines that the forbearance standard has been satisfied.¹¹ As will be described more fully in the following section of this petition, GEO's forbearance request meets all three prongs of that standard.

GEO's Forbearance Request Meets Each Prong of the Statutory Standard for Exercise of the Commission's Forbearance Authority

Before addressing the specific criteria which govern petitions for forbearance as codified at Section 10 of the Act, GEO readily acknowledges that the instant request is rather unusual and differs from the requests typically set forth in petitions for forbearance. Underlying GEO's petition is not a desire to achieve some type of regulatory or pricing relief based upon

¹⁰ 47 U.S.C. § 160(a) (emphasis added).

¹¹ The scope of this forbearance request would extend to those private entities which operate correctional facilities and jails pursuant to state and local government contracts.

competitive or marketplace considerations. GEO's forbearance does not raise questions of consumer choice, marketplace forces or competition policy. Rather, its petition is about other very important public interest concerns public safety, correctional facility management and security, and law enforcement. It is important to recognize the broad scope of the Commission's forbearance authority. While the Commission has been instructed by Congress to consider several specific criteria, the most critical of the enumerated criteria is that codified at Section 10(a)(3) -- consistency with the public interest. As will be described in subsection (c) below, the public interest compels grant of this petition.

- a. **Enforcement of the Federal Government Limitation on the Prohibition against Interference with Cellular Telephones at State and Local Correctional Facilities is not Necessary to Ensure that Charges, Practices, Classifications, or Regulations for, or in connection with, Telecommunications Service are Just and Reasonable and are not Unjustly or Unreasonably Discriminatory**

The first statutory criterion which must be met in considering forbearance requests is that the law or regulation for which forbearance is sought is not necessary to ensure just and reasonable and not unreasonably discriminatory charges, practices, classifications, or regulations for that telecommunications service.¹² Grant of GEO's forbearance request so as to allow interference with cell phone service at state and local correctional facilities and jails will have no impact on the charges, practices, classifications or regulations governing cell phone service at these correctional facilities and jails. This is so for one very simple reason: cell phone usage is not permissible by inmate populations at virtually any Federal, state or local correctional facility or jail in the nation,¹³ including those correctional facilities and jails managed and operated by

¹² 47 U.S.C. § 160(a)(1).

¹³ See citations at footnotes 5 and 6, *supra*.

private entities pursuant to contract with Federal, State or local correctional authorities.¹⁴ Since there is no right of correctional facility or jail inmates to possess cell phones or other wireless devices and to use cell phone service, interference with their operation will have no impact of the charges, practices, classifications or regulations for such services. Grant of this forbearance request will not cause any increase or reduction in wireless telecommunications service rates. It would merely ensure that such services are not used unlawfully -- and for dangerous purposes -- at correctional facilities where their use already is prohibited.

GEO acknowledges that interference with cell phone usage at correctional facilities and jails would also prevent their use by facilities and jail employees and by visitors to those correctional facilities and jails. However, the operators of correctional facilities have the right to prohibit on-premises cell phone use by employees as a condition of employment, and by visitors pursuant to regulations governing inmate visiting privileges. Virtually all correctional facilities impose such prohibitions on their employees and visitors.¹⁵ Employees accept employment

¹⁴ The Commission has long recognized that correctional authorities can and do restrict cell phone usage at corrections facilities. See, e.g., Petition for Declaratory Ruling by the Inmate Calling Services Providers Task Force, 11 FCC Rcd 7362 (1996) at ¶ 31 (“... corrections officials, who have broad discretion in deciding whether to permit inmate calling, may restrict inmate calling for reasons of security, discipline, or fraud prevention.”). The fact that cell phone usage is prohibited at correctional facilities is further corroborated by the affidavits of Warden Jenkins, Captain Gannon, and Warden Campbell. As noted by Warden Jenkins, possession of a cell phone within a correctional facility in Mississippi is a felony (Jenkins Affidavit at ¶ 11). Captain Gannon’s affidavit states that the policies of the George W. Hill Correctional Facility specifically prohibit cell phones, pagers, personal digital assistants, and other wireless devices (Gannon Affidavit at ¶ 6). Warden Campbell’s affidavit states that cell phones, pagers, and other wireless devices are prohibited at the Val Verde Correctional Facility (Campbell Affidavit at ¶ 7).

¹⁵ See “Prohibited Items,” Inmate Visiting Guidelines, Department of Corrections and Rehabilitation, State of California, at 8; “Items Not Permitted for Visitors,” Texas Department of Criminal Justice, Offender Rules and Regulations for Visitation, Section 3.6.3 at 12 (Revised November 2002); 14 Louisiana Revised Statutes, Chapter 2, Part V § 402, E, (7); Mississippi Department of Corrections, “Visitation, General Procedures,” Section 5; Nevada Revised Statutes, 209.417 1 (2007); Oregon Administrative rules Compilation, 20-016-0100 (2) (2007);

subject to conformance with personnel rules, including those governing cell phone usage. Similarly, visitors to correctional facilities and jails are subject to facilities regulations, including those governing cell phone usage, as a condition of being allowed to visit inmates confined at correctional facilities and jails. The prohibitions on such cell phone usage at Warden Jenkins' facility in Mississippi, Captain Gannon's facility in Pennsylvania, and Warden Campbell's facility in Texas are described in their respective affidavits (Jenkins Affidavit at ¶ 6, Gannon Affidavit at ¶ 6, Campbell Affidavit at ¶7).

Since neither correctional facilities employees nor visitors have a right to utilize cell phones or other wireless devices on premises of correctional facilities and jails where such usage is prohibited, interference with that usage would not deprive those persons of just and reasonable, and not unreasonably discriminatory charges, practices, classifications or regulations.

b. Enforcement of the Federal Government Limitation on the Prohibition against Interference with Cellular Telephones at State and Local Correctional Facilities is not Necessary for the Protection of Consumers

The second statutory forbearance criterion is that enforcement of such regulation or provision is not necessary for the protection of consumers.¹⁶ Not only is enforcement of the aforementioned federal government limitation on the prohibition against radio interference at state and local correctional facilities not necessary for the protection of consumers, the relief sought by this forbearance petition is critical to the ability of state and local correctional authorities to protect consumers, indeed, to protect all citizens. As described in the affidavits of Warden Jenkins, Captain Gannon, and Warden Campbell, unauthorized and unlawful cell phone use at correctional facilities has become rampant. The growing availability to inmates of

Code of Arkansas Rules, 159.00.002, Administrative Regulations, "Resident Visitation Rules and Conditions," Paragraph 6 (2007).

¹⁶ 47 U.S.C. § 160(a)(2).

'contraband" cell phones and other wireless devices and the practical inability of corrections authorities to prevent those phones and other wireless devices from getting into the hands of inmates and from being used unlawfully despite those officials' best efforts to prevent such unauthorized obtainment and usage have created a grave safety and security risk. If cell phones and other wireless devices were to be rendered unusable at correctional facilities, inmates would be limited to the inmate telephone systems made available to them at the correctional facilities and jails where they are housed. As has been described in detail in another Commission proceeding and in the Warden Jenkins, Captain Gannon, Warden Campbell Affidavits, inmate telephone usage is carefully monitored by authorities.¹⁷ These procedures protect the public by ensuring that inmate telephone service is available for its intended purposes -- to maintain contact with family and friends, and to consult with their attorneys. However, unauthorized and impermissible cellular telephones would not be available to conduct unlawful activities, to take actions in furtherance of crimes, to plan escapes, to extort money, or to contact witnesses, law enforcement personnel, and even judges. The widespread -- and growing -- presence of cell phones and other wireless devices within inmate populations and the unauthorized and unlawful use of cell phones and other wireless devices within such correctional facilities and jails has indeed threatened the safety and security of consumers.

Warden Jenkins, Captain Gannon, and Warden Campbell describe in their affidavits specific situations which have occurred at their facilities which have jeopardized the safety of inmates, facilities employees and, in some cases, the general public. For example, at ¶ 15 of Warden Jenkins' affidavit, he describes an incident in which local residents in Marshall County,

¹⁷ See, e.g., comments of The GEO Group, Inc. submitted in CC Docket No. 96-128, May 2, 2007, as well as comments of various state correctional authorities submitted in that docket. See also Jenkins Affidavit at ¶ 8; Gannon Affidavit at ¶ 14, Campbell Affidavit at ¶ 13.

Mississippi, received extortion threats from inmates demanding protection money. Those threatening calls were made over unlawfully-obtained and used cell phones. Captain Gannon describes at ¶ 12 of his affidavit a situation in which an inmate awaiting trial for murder used a cell phone to facilitate an attempted escape -- a plan which had as a critical component an ambush of correctional officers. Warden Campbell explains at ¶ 14 of his affidavit how gang members are able to utilize contraband cell phones to engage in gang activities and to operate criminal networks while incarcerated.

The Commission has held in the specific context of considering petitions for forbearance that a critical component of the consumer protection criterion codified at Section 10(a)(2) of the Act is the protection of public safety.¹⁸ There the Commission denied a request that it forbear from enforcing its standards for E911 location accuracy with respect to a category of wireless carriers, in part, on the basis that the requested relief -- forbearance from enforcement of the location accuracy requirements -- would not protect consumers. Indeed, it would compromise public safety. In doing so, the Commission stated that Congress has specifically directed the Commission to consider public safety needs when exercising its regulatory authority.¹⁹ Just as denial of a forbearance petition was appropriate in that case in order to protect the safety of consumers, grant of the instant forbearance request is necessary and appropriate to protect the safety of the consuming public, including those consumers who work at correctional facilities, and those who receive harassing calls from inmates -- calls which originate from unlawfully-obtained and used cell phones.

¹⁸ Petition for Forbearance From E911 Accuracy Standards Imposed on Tier III Carriers For Locating Wireless Subscribers Under Rule Section 20.18(h), 18 FCC Rcd 24648 (2003).

¹⁹ *Id.*, at ¶ 15.

GEO is mindful of the fact that in 2005, the Commission issued a public notice clarifying and affirming that use of devices which prevent, jam or interfere with cell phones is unlawful.²⁰ In that public notice, the Commission stated that cell phone jammers which disrupt communications are not permissible despite the fact that the Commission had received comments that use of cell phones in public places is "disruptive and annoying," referring to usage in such inappropriate places as commuter trains, theaters, hotels, restaurants, and other locations frequented by the public.

It is important that the Commission understand and appreciate the fact that the purpose for the instant forbearance petition is not to prevent such public disruptions and annoyances. The relief sought by this petition is for the specific and highly important purpose of protecting public safety and enabling law enforcement and correctional authorities to more effectively perform their responsibilities. It is difficult to imagine anything which would be more protective of consumers than to make correctional facilities and communities at large safer by preventing contraband cell phones and other wireless devices from being used within their confines, especially where such cell phones are used as devices to engage in criminal conduct, as tools of harassment and intimidation of the general public, as well as interference with law enforcement and judicial processes.

- c. **Forbearance from Enforcement of the Federal Government Limitation on the Prohibition Against Interference with Cellular Telephones at State and Local Correctional Facilities would be Consistent with the Public Interest**

²⁰ Public Notice - Sale or Use of Transmitters Designed to Prevent, Jam or Interfere with Cell Phone Communications is Prohibited in the United States, DA 05-1776, released June 27, 2005.

The third prong of the statutory three-pronged forbearance standard is perhaps the most important of the prongs -- consistency with the public interest.²¹ As described in this petition and in further detail by the attached Jenkins, Gannon, and Campbell affidavits, affording state and local corrections authorities and those entities who operate and manage correctional facilities and jails pursuant to contracts with such correctional authorities, the right to interfere with cell phone usage at correctional facilities and jails in order to prevent the unlawful use of cell phones and other wireless devices at those facilities is necessary for the safety of inmate populations, the employees of those facilities, and for the general public. No one can dispute that impermissible cell phone and other wireless device usage at correctional facilities and jails has resulted in unlawful activities and has compromised public safety. Neither can it be disputed that regulations prohibiting cell phone and other wireless devices possession and usage by inmates at correctional facilities are not sufficient to ensure that such devices will not find their way to inmates and be used in contravention of those regulations, thereby endangering the correctional facilities' populations and the public at-large.

Lest there be any doubt as to the realities of the dangers of cell phone usage within correctional facilities, those doubts should be allayed by the information contained in the attachments to this petition. Unlawful and unpreventable cell phone use by correctional facilities inmates is not just a possibility, it is a reality which recurs often. At Warden Jenkins' facility in Holly Springs, Mississippi, between July 1, 2006 and July 26, 2007, ninety-two cell phones or other wireless devices had found their way into the possession of inmates before they were confiscated despite the fact that such possession is a felony under state law (Jenkins Affidavit at ¶ 12). At Captain Gannon's facility in Thornton, Pennsylvania, between January 1, 2005 and

²¹ 47 U.S.C. § 160(a)(3).

January 1, 2007, sixty-five cell phones and other wireless devices were confiscated from inmates (Gannon Affidavit at ¶ 9). No one knows how many other cell phones in the unlawful possession of inmates escaped detection and were not confiscated, nor is it known how often those cell phones were used to plan unlawful activities, including, for example, escapes, to intimidate witnesses and law enforcement personnel, to buy and sell narcotics, and to extort “protection” money from private citizens.

The Commission has often held that public safety is an important part of its public interest obligation.²² It has even acknowledged public safety considerations in evaluating other forbearance petitions and granted a forbearance petition upon concluding that the requested forbearance would promote public safety.²³ The Commission’s attention is directed to another decision in which it approved the use of interference or jamming devices where such devices would be used by law enforcement personnel to protect the public. In Remington Arms Company, Inc., 37 CR 530 (2005), the Commission waived its rules to allow law enforcement to utilize transmitting devices for investigating hostile situations without endangering police personnel. It stated that “[t]he Eyeball R1 [the interference-causing device for which waiver was sought] will serve the public interest because law enforcement will be able to use it to help save lives.” (*Id.*, at ¶ 6). As with the instant request, the device could only be used in limited, specified areas and would not interfere with radio communications, including cell phone service, beyond those areas. In that case, the device could be used only in areas generally cordoned off from the public; in the instant case, the jamming devices could be used only at correctional

²² Wackenhut Corporation, 13 FCC Rcd 16810 (1998) at ¶ 7 (“We find that Wackenhut has demonstrated that granting its waiver request is in the public interest because it facilitates operation of a system that enhances safety of the general public located within its service area . . .”).

²³ Federal-State Joint Board on Universal Service, 20 FCC Rcd 15095 (2005), at ¶ 16.

facilities and jails. Thus, the Commission properly concluded that there would be virtually no potential for interference beyond those areas, and that such devices should be allowed since they would "help save lives." A similar conclusion with respect to this forbearance request is no less warranted.

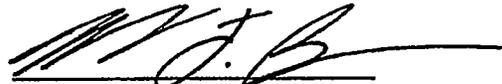
Grant of this petition for forbearance will not impact the availability of wireless telecommunications services beyond the immediate premises of state and local correctional facilities and jails nor will it impede usage of cell phones or other wireless devices anywhere other than at those correctional facilities and jails where such interference is deemed necessary to prevent unlawful -- and dangerous -- use of unauthorized cell phones and other wireless devices by inmates. In summary, the public interest benefits of this forbearance request are apparent and overwhelming, and the impact on availability of any telecommunications services, including wireless services, beyond the premises of correctional facilities would be non-existent. Therefore, forbearance in these circumstances would be consistent with the public interest.

Conclusion

For all the foregoing reasons, The GEO Group, Inc.'s petition for forbearance meets each prong of the statutory standard for forbearance codified at Section 10 of the Act, and GEO respectfully requests that the Commission promptly grant this petition for forbearance.

Respectfully submitted,

THE GEO GROUP, INC.



Mitchell F. Brecher
GREENBERG TRAURIG, LLP
800 Connecticut Avenue, NW
Suite 500
Washington, D.C. 20006
(202) 331-3100

Its Attorneys

July 31, 2007

Attachment 1

AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF MARSHALL

Before me the undersigned authority personally appeared LEPHER JENKINS, Warden for the Marshall County Correctional Facility in Holly Springs, Mississippi, who, after first being duly sworn, deposes and says:

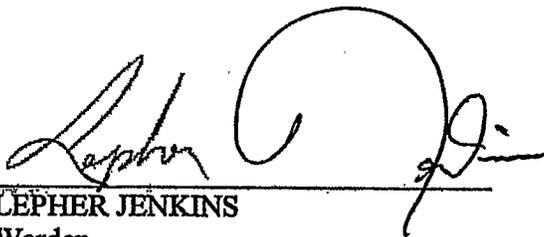
- 1 My name is LEPHER JENKINS and I currently reside in Desoto County, Mississippi. I am over the age of 18 and have full knowledge of the facts contained in this Affidavit.
2. I have been employed for The GEO Group, Inc. (GEO) since October 1, 2000 and currently serve as the Warden of the Marshall County Correctional Facility in Holly Springs, Mississippi.
3. Prior to being employed as the Warden of the Marshall County Correctional Facility, I served for three (3) years as Warden at the Lindsey State Jail in Jacksboro, Texas. All total, I have approximately thirty-six (36) years as a professional in the area of corrections and state / local law enforcement.
4. The Marshall County Correctional Facility is a medium security prison and currently houses approximately 1,000 Mississippi Department of Corrections (Mississippi DOC) male inmates. The facility is operated by GEO pursuant to a contract with the Mississippi DOC awarded December 2, 1994. Under the terms of that contract, GEO operates the facility in accordance with the laws, regulations, and policies governing correctional facilities in the State of Mississippi.
5. In my capacity as a Warden, I am responsible for the safety and security of the inmate population, visitors and employees at the Marshall County Correctional Facility, as well as the general public as it pertains to issues related to the correctional facility.
6. The regulations of the Marshall County Correctional Facility specifically prohibit electronic devices (cell phones, pagers, radios, etc.) in the secure areas of our correctional facility. All individuals requesting admittance to the facility or the visitation area are subject to a pat-down search of their person, an inspection of their belongings, and a metal scan search. All detainees are required to submit to a pat-down search when visiting with their family members, friends, attorneys, paralegals, etc, prior to the start of the visit.

7. Despite the best efforts of our correctional officers to enforce this cell phone prohibition, it has been my experience as Warden of the Marshall County Correctional Facility that inmates nevertheless are able to possess and use cell phones or other wireless communication devices while within the confines of our correctional facility. The popularity, easy accessibility and inexpensive nature of cell phones make them very attractive to inmates, families of inmates and unscrupulous employees wanting to earn additional money by buying and selling "contraband" cell phones to inmates.
8. The Marshall County Correctional Facility has inmate telephones in all housing areas for inmate use but these inmate telephones are monitored and recorded for security purposes. To circumvent this security procedure, it has been my experience as the Warden that inmates have individuals outside the facility (i.e., family members, individuals wanting to support criminal activity, unscrupulous employees of the facility) buy cell phones and smuggle them into our facility.
9. It has been my experience that cell phones are introduced into correctional facilities, like the Marshall County Correctional Facility, by visitors concealing the cell phones on their persons when coming to visit inmates; individuals throwing cell phones over the correctional facility's perimeter fences late at night; or paying a correctional facility employee to smuggle the cell phones into our facility.
10. From my experience as the Warden of the Marshall County Correctional Facility, cell phones have been used by inmates for the conduct of criminal activities, i.e., gang activity, drug trafficking, extortion, witness tampering and harassment, as well as attempting to facilitate escapes from the facility.
1. After the passage of a Mississippi State law in July 2006 making possession of a cell phone within a correctional facility a felony, the Marshall County Correctional Facility introduced several additional measures to prevent cell phones from entering our facility. For example, we posted signs in outer and enter areas for staff and visitors notifying them of the prohibition; inspected staff and visitor property entering the facility; installed metal detectors which scan all staff and visitors; established an orion scan to detect electronic devices on visitors and staff; instituted random pat search of staff; instituted a daily check of enter and outer perimeter grounds for cell phones and other contraband; instituted random searches of inmates' cells for cell phones and other contraband; instituted random pat searches of inmates for cell phones and other contraband, instituted random searches of internal buildings for cell phones and other contraband; and instituted a semi-annual "Total Facility Lockdown and Shakedown" to thoroughly search the Marshall County Correctional Facility for cell phones and other contraband.

12. Despite these extensive efforts; however, cell phones are still entering the Marshall County Correctional Facility. For example, between July 1, 2006 and July 26, 2007, correctional officers at Marshall County Correctional Facility confiscated approximately ninety-two (92) cell phones or other wireless communication devices from inmates at our correctional facility. In fact, the Marshall County Correctional Facility currently houses eight (8) inmates who are under indictment by Mississippi state prosecutors for possessing or using cell phones within our facility, with several more indictments pending against additional inmates.
13. It has been my experience, as the Warden of the Marshall County Correctional Facility, that inmates have learned to remove the "SIM" card from cell phones in the facility and keep those "SIM" cards separate from the cell phones. As a result, it is impossible to trace calls made by confiscated cell phones to determine who is making or receiving the cell phone calls. Additionally, attempts by our correctional staff to obtain this information from the cell phone carriers have been met with a total lack of cooperation.
14. The presence of cell phones and wireless communication devices within the Marshall County Correctional Facility jeopardizes the safety and security of the facility, the employees in the facility, the inmates in the facility, and the general public.
15. Recent examples of how cell phones jeopardize safety and security include an incident in which local residents reported receiving calls from Marshall County Correctional Facility inmates trying to extort money from these private citizens. Additionally, our correctional officials have received several calls from families of inmates stating that they have received cell phone calls from inmates in our facility demanding that the family members pay protection money for their loved ones in our facility.
16. It is also my understanding that an inmate escaped from the East Mississippi Correctional Facility (another correctional facility subject to the authority of the Mississippi DOC) in 2006 utilizing an unlawfully-obtained cell phone to assist in the escape. Finally, in May 2007, our facility experienced an inmate disturbance after inmates used cell phones to report to other inmates that a homicide had occurred at a state correctional facility. It is my understanding that this homicide was gang related and information regarding retaliations for the homicide was communicated by and to inmates in our facility via cell phones.

7. As the Warden of the Marshall County Correctional Facility, it is my opinion that the use of devices which would allow correctional officials to cause interference of cell phone signals at the Marshall County Correctional Facility is the only effective means to prevent unlawful use of cell phones by inmates within our facility and prevent the type of criminal activity and public dangers outlined above. These cell phone "jamming" devices are essential for the safety and security of our facility and the general public.

FURTHER AFFIANT SAYETH NAUGHT.

A handwritten signature in cursive script, appearing to read "Lephher Jenkins", written over a horizontal line.

LEPHER JENKINS

Warden

Marshall County Correctional Facility

STATE OF MISSISSIPPI

COUNTY OF MARSHALL

BEFORE ME, the undersigned authority, personally appeared:

LEPHER JENKINS who is

- Personally known to me or
 Produced _____ as identification and
 Did take an oath
 Did not take an oath

And having been personally sworn by me deposes and says that he signed the foregoing Affidavit and states said Affidavit is true to the best of his knowledge and/or belief.

SWORN TO and subscribed before me this 27th day of

July, 2007.

Bernice Brown
Notary Public, State of Mississippi
At Large

My Commission expires:

MISSISSIPPI STATEWIDE NOTARY PUBLIC
MY COMMISSION EXPIRES FEB. 3, 2011
BONDED THRU STEGALL NOTARY SERVICE

Attachment 2

AFFIDAVIT

STATE OF PENNSYLVANIA

COUNTY OF DELAWARE

Before me the undersigned authority personally appeared MICHAEL GANNON, Administrative Captain for the George W. Hill Correctional Facility in Thornton, Pennsylvania, who, after first being duly sworn, deposes and says:

1. My name is MICHAEL GANNON and I currently reside in Delaware County, Pennsylvania. I am over the age of 18 and have full knowledge of the facts contained in this Affidavit.
2. I have been employed for The GEO Group, Inc. (GEO) since April 1, 1996 and currently serve as the Administrative Captain for the George W. Hill Correctional Facility in Thornton, Pennsylvania.
3. Prior to being employed as the Administrative Captain for the George W. Hill Correctional Facility, I served for 11 years in various security posts. All total, I have approximately 12 years as a professional in the area of corrections and law enforcement.
4. The George W. Hill Correctional Facility is a medium / high security prison which currently houses approximately 1,500 Delaware County male inmates. The George W. Hill Correctional Facility is operated by GEO pursuant to a contract with the Delaware County Board of Prison Inspectors awarded August 4, 1995. Under the terms of that contract, GEO operates the facility in accordance with the laws, regulations, and policies governing correctional facilities in the State of Delaware, as well as standards established by the American Correctional Association.
5. In my capacity as the Administrative Captain of the George W. Hill Correctional Facility, I am responsible for the safety and security of the inmate population, visitors and employees at the facility, as well as the general public as it pertains to issues related to the prison.
6. It is the policy of the George W. Hill Correctional Facility to prohibit cell phones, pagers, personal digital assistants (PDAs), video/audio recording devices, and photography equipment in the visiting areas or secure areas of this correctional facility. All staff and visitors entering the facility are pat searched, required to clear a magnetometer and subjected to an ION Scan (used to detect the presence of controlled substances). Inmates who are entering any form of contact visitation are subjected to strip searches.

7. Despite the best efforts of correctional officers to enforce the prohibition of cell phones in the George W. Hill Correctional Facility, it has been my experience as the Administrative Captain of our facility that inmates nevertheless possess or use cell phones or other wireless communication devices while within the confines of the correctional facility. It has also been my experience that inmates obtain cell phones through all forms of contact visitation with friends/family, as well as staff employed at our facility who become corrupt and smuggle cell phones into our facility discreetly.
8. It has been my experience that one way that cell phones are smuggled into our facility is by individuals hiding such contraband in a body cavity. Without probable cause, it is my understanding, that a body cavity search of such individuals by our correctional officers is illegal. Accordingly, it is very difficult to detect cell phones entering the George W. Hill Correctional Facility.
9. Between January 1, 2005 and January 1, 2007, correctional officers at our facility confiscated approximately sixty-five (65) cell phones or other wireless communication devices from inmates. It is my understanding that inmates in possession of many of these cell phones were contacting individuals outside the facility to arrange for contraband to be delivered to the inmates, including illegal narcotics and other cell phones.
10. Unfortunately, correctional officers at the George W. Hill Correctional Facility have not been able to accurately pin point the source of cell phone trafficking at our facility. Because of our status as a privately operated prison, we are not considered a "law enforcement agency" under County of Delaware law, and are therefore unable to obtain court orders to determine the source of the cell phones, including who purchased them or whose telephone numbers were found in the phone's "SIM" card.

As the Administrative Captain of the George W. Hill Correctional Facility, it is my professional opinion that the presence of cell phones and wireless communication devices within our facility provide a serious threat to the safety and security of the facility, since it allows inmates to continue criminal activity through an undetectable method of communication.

12. For example, I am familiar with one incident in which a cell phone was discovered on an inmate at our facility who was awaiting trial for murder. It is my understanding that this inmate was using the cell phone to facilitate a plan of escape from our custody by arranging an ambush of correctional officers as they transferred the inmate to an outside medical facility for either a feigned or self-inflicted injury.
13. I am also familiar with another incident in which an inmate was discovered in his cell at our facility, appearing to have overdosed on illegal narcotics. It is my understanding that this inmate obtained the illegal narcotics through an

underground narcotics trafficking system run by inmates at our facility which depends heavily upon inmates' availability and use of prohibited cell phones within our facility.

4. Such criminal activity at our facility is controllable when inmates can only utilize those inmate telephone systems provided at our facility, since these telephone systems can be monitored for such criminal activity. However, the presence of cell phones in the George W. Hill Correctional Facility have historically provided inmates with a means for circumventing facility security practices and allowed the inmates to disguise their criminal activity.
5. In my capacity as the Administrative Captain of the George W. Hill Correctional Facility, it is my opinion that the availability of the use of devices which can interfere with cell phone signals at the George W. Hill Correctional Facility would greatly assist correctional officials prevent of the use of cell phones by inmates, reduce the criminal activity described above and enhance the safety and security of the facility and the general public.

FURTHER AFFIANT SAYETH NAUGHT.



MICHAEL GANNON
Administrative Captain
George W. Hill Correctional Facility

STATE OF PENNSYLVANIA

COUNTY OF DELAWARE

BEFORE ME, the undersigned authority, personally appeared:

MICHAEL GANNON who is

personally known to me or

produced _____ as identification and

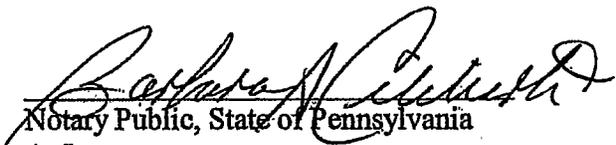
did take an oath

did not take an oath

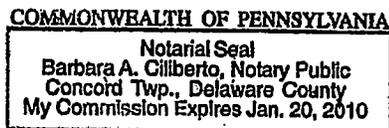
and having been personally sworn by me deposes and says that he signed the foregoing Affidavit and states said Affidavit is true to the best of his knowledge and/or belief.

SWORN TO and subscribed before me this 27th day of

July, 2007.


Notary Public, State of Pennsylvania
At Large

My Commission expires:



Attachment 3

AFFIDAVIT

STATE OF TEXAS

COUNTY OF VAL VERDE

Before me the undersigned authority personally appeared **JOHN R. CAMPBELL**, Warden for the Val Verde Correctional Facility in Del Rio, Texas, who, after first being duly sworn, deposes and says:

My name is **JOHN R. CAMPBELL** and I currently reside in Val Verde County, Texas. I am over the age of 18 and have full knowledge of the facts contained in this Affidavit.

2. I have been employed for The GEO Group, Inc. (GEO) since July 1989 and currently serve as the Warden of the Val Verde Correctional Facility in Del Rio, Texas.

Prior to being employed by GEO, I served for 7 years with the Texas Department of Criminal Justice. All total, I have approximately 24 years as a professional in the area of corrections and law enforcement.

4. The Val Verde Correctional Facility is a medium security facility, currently housing approximately 800 inmates from the U.S. Marshals Service (USMS) and the U.S. Department of Homeland Security's Immigration and Custom Enforcement (ICE). The Val Verde Correctional Facility is operated by GEO pursuant to a contract with Val Verde County, Texas awarded December 18, 1998.
5. In my capacity as a Warden, I am responsible for the safety and security of the inmate population, visitors and employees at the Val Verde Correctional Facility, as well as the general public as it pertains to issues related to the prison.
6. Under the terms of that contract, GEO operates the facility in accordance with federal laws, regulations, and policies governing correctional facilities, including ICE Detention Standards. For example, ICE Detention Standards require correctional staff at our facility to seize any item identified as contraband and then inventory that contraband. Contraband includes material that can reasonably be expected to cause physical injury or adversely affect the security, safety, or good order of the facility, such as cell phones, pagers, or other wireless devices.

It is the policy of the Val Verde Correctional Facility to prohibit cell phones, pagers, or other wireless devices in the secure areas of this correctional facility. All individuals requesting admittance to the facility or the visitation area are

subject to a pat-down search of their person, an inspection of their belongings, and a metal scan search. All detainees are required to submit to a pat-down search when visiting with their family members, friends, attorneys, paralegal, etc, prior to the start of the visit.

8. Despite the best efforts of our correctional officers to enforce this prohibition of inmates possessing cell phones in our facility, it has been my experience as Warden of the Val Verde Correctional Facility that inmates nevertheless possess and use cell phones while within the confines of our correctional facility.
9. Unfortunately the most common method used by the inmate population for obtaining cell phones is through the use of corrupted staff employee of the facility. A recent example of a Val Verde Correctional Facility staff member providing an inmate with a cell phone was discovered only after a search of the inmate's living area resulted in discovery of a cell phone, along with a bag of marijuana in the facility's common area. The investigation of this incident revealed that a correctional officer at our facility had been coerced into bringing the contraband into the inmate.
10. Another method used by inmates for bringing cell phones into correctional facilities, such as Val Verde Correctional Facility, is for an inmate's family or friends to deposit a cell phone along the perimeter of our facility or inside the facility during visitation. It has been my experience that an "inmate trustee" is typically tasked with bringing the cell phone from its deposited location through our security and into our facility. While 99% of the time our correctional officers do a very thorough job of searching these "inmate trustees," it is still possible for contraband (such as cell phones) to get into our facility.

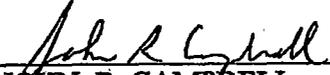
Despite the fact that the prohibition against staff providing inmates with such contraband is thoroughly covered in our training as well as ethics policies, contraband such as cell phones are nevertheless introduced into our facility through staff who make bad decisions and are susceptible to manipulation by the inmates.

12. It has been my experience as Warden of the Val Verde Correctional Facility, that if an inmate wants a cell phone the odds are in his favor that he will eventually discover a way to obtain one. It may take the inmate a while to carry out this plan, but if the inmate is determined and clever enough he will eventually get a cell phone into our facility regardless of our current capabilities to prevent the introduction of cell phones into our facility.
13. The presence of cell phones and wireless communication devices within the Val Verde Correctional Facility significantly impacts the safety and security of the facility. For example, cell phones in the possession of our inmates circumvents the ability of our correctional officials from thwarting criminal activity by inmates

by monitoring telephone conversations made through the inmate telephone system.

14. More specifically, it has been my experience as a correctional official, that practically every jail and prison houses gang members. The Val Verde Correctional Facility often houses members of the Mexican Mafia, including the local Mexican Mafia leader for Val Verde County and surrounding areas. Cell phones allow such gang members to continue operating their criminal networks from within correctional facilities without the knowledge of correctional officials or law enforcement.
15. It is my opinion that the ability of correctional officials to block cell phone signals in the Val Verde Correctional Facility would force these gang members to use the inmate telephone system which would allow our correctional officers and law enforcement to monitor these individuals' communications for possible criminal activity.
16. In conclusion, it is my professional opinion, that the use of devices which would allow correctional officials to interfere with cell phone signals within the Val Verde Correctional Facility would effectively prevent the use of cell phones by inmates would increase the safety and security of the facility and the general public.

FURTHER AFFIANT SAYETH NAUGHT.



JOHN R. CAMPBELL
Warden
Val Verde Correctional Facility

STATE OF TEXAS

COUNTY OF VAL VERDE

BEFORE ME, the undersigned authority, personally appeared:

JOHN R. CAMPBELL who is

- personally known to me or
 produced _____ as identification and
 did take an oath
 did not take an oath

and having been personally sworn by me deposes and says that he signed the foregoing Affidavit and states said Affidavit is true to the best of his knowledge and/or belief.

SWORN TO and subscribed before me this 27th day of

July, 2007.

Maria E. Reyna
Notary Public, State of Texas
At Large

My Commission expires:

