

## OFFICE OF THE SECRETARY

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July 18, 2013

Marlene H. Dortch, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington D.C. 20554

Dear Madam Secretary:

The California Department of Corrections and Rehabilitation (CDCR) welcomes the opportunity to provide comments regarding the Proposed Rulemaking for Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities, Docket No. GN 13-111. CDCR fully supports the Federal Communications Commission's (FCC) efforts to promulgate rules that will assist correctional administrators in controlling the proliferation of contraband cell phones and end the criminal activities and victim harassment that have resulted from use of the same in California prisons by inmates.

For several years, CDCR has been working closely with the FCC on the problem of inmates who possess contraband cell phones in California's 33 adult prisons. The possession of unauthorized cell phones in California prisons is a major security and public safety concern. Inmates may use unauthorized cell phones in a number of dangerous or harassing ways, including to plan and carry out attacks on staff or other inmates, to direct criminal activity outside the prison, or to contact and harass victims of their crimes, without any ability for CDCR to monitor the communication.

In 2007, CDCR staff discovered nearly 1,400 contraband cell phones. That number has risen to 11,788 contraband cell phones discovered in 2012. Virtually every search of a prison housing unit results in discovery of cell phones and/or components of them. In February 2013, a California inmate was convicted in federal court in Maine of running a nationwide drug distribution network from prison via a contraband cell phone. Another inmate was recently charged with distribution of pornography depicting children to individuals in Missouri while incarcerated in California. As inmates have no access to the Internet, a possible method of distribution is through use of a so-called "smart phone."

In 2010, there were 200 incidents directly traced back to inmates using cell phones to conduct criminal activities from inside CDCR institutions. Such criminal activities continue to occur in California prisons. Staff members have been prosecuted for smuggling cell phones to inmates.

In 2012 and 2013, the CDCR's Office of Victim and Survivor Rights and Services reported 107 contacts made by CDCR inmates using cell phones to continue victimizing people from inside

CDCR institutions, and these are only the incidents that were reported to CDCR. Numerous other calls came from non-crime victims or anonymously about inmates contacting individuals by telephones that were not part of CDCR's recorded inmate telephone system. Among incidents of inmates contacting victims via contraband cell phones were the following:

- Inmates who called domestic violence victims claiming to be out of prison and back in the community. This terrified the victim, as the cell phone number on caller ID shows a local number, verifying the inmate's claim that he is able to harm the victim again.
- Inmates who sent text message photos of themselves, including photos of their genitalia, to sex offense victims.
- Inmates who contacted victims or family through email and social networking sites, sometimes making death threats.
- An inmate who contacted a young girl via a social networking site, obtained her phone number, and then called and talked to her.

In a continual effort to limit the introduction of cellular phones, California's Senate Bill 26 and Governor's Executive Order B-11-11, authorized CDCR to use existing resources to address the prison cell phone problem. Pursuant to the Order, there has been an increase in physical searches of individuals who enter prisons and the implementation of managed access technology at several California prisons. CDCR also continues its research into technologies surrounding detection.

CDCR contracted with Global Tel\*Link and its sub-contractor, Corrections.com, to deploy managed access technology to limit illegal and unauthorized activity. The Managed Access System (MAS) implementation is scheduled to complete within 36 months following the contract effective date of May 31, 2012. CDCR has begun a phased deployment approach that includes: Phase 0, Avenal State Prison, was completed November 9, 2012; Phase I, 17 adult facilities to be completed within 18 months of contract award; Phase II, 15 adult facilities to be completed within 36 months of contract award. Future Phases/Sites currently in the design, construction and/or planning stages are to be completed within six (6) months of the state's formal request.

It is expected that the MAS technology will be deployed at specified areas at each CDCR adult facility within the bounds of state property to either permit or interfere with transmissions of cellular wireless devices. The MAS will not prevent emergency 911 calls or interfere with public safety radios, approved electronic devices, and wireless cellular service outside the secure confines of CDCR's prison property. The system is designed to allow CDCR to effectively control contraband cell phones without impacting legitimate wireless communications in the designated areas of CDCR's adult prisons.

Since MAS was implemented at the first CDCR prison (Avenal State Prison in November 2012), more than 1.5 million attempts to use contraband cell phones were blocked as of June 30, 2013. These attempts were made on more than 5,100 different contraband cell phones, with more than 54,000 unique destination numbers. The risk to the public of such uncontrolled, unmonitored communication by inmates is immense.

#### **I. Streamlining Authorization of Leases for Managed Access Systems for Use in Correction Facilities**

CDCR encourages and supports the procedural changes needed to streamline the application process for Spectrum Lease Agreements. Contraband cellular wireless devices pose a serious threat to correctional security. Implementation of managed access is dependent on the issuance of the Lease Agreements. Immediate or accelerated processing will aid to more expedient deployment(s), thereby contributing to a safer correctional environment for staff, inmates, and the public.

CDCR's contractors will need to negotiate and file close to 200 agreements if this process is not modified.

#### **II. Private Mobile Radio Service (PMRS) Presumption**

CDCR supports the amendment of Section 20.9 to establish that managed access services in correctional facilities provided on spectrum leased from Commercial Mobile Radio Service (CMRS) providers shall be presumptively treated as PMRS. Specifically, CDCR supports an exemption of managed access providers from the Commission's 911 and E911 rules.

It is CDCR's intent to process emergency 911 calls regardless of whether they originate from an authorized or unauthorized/contraband device. However, the method in which the call is processed determines the effectiveness of the MAS. If an emergency 911 call is routed through the facility's land line, the MAS is able to maintain control of the wireless cellular device. On the other hand, should a managed access carrier be required to adhere to the same regulations as a CMRS, the MAS will be forced to relinquish control of the unauthorized/contraband device in order to process the call. Thus, allowing the unauthorized/contraband device to make an undetermined number of transmissions during the uncontrolled timeframe rendering any implementation of managed access useless. Additionally, any area where managed access is implemented, the Public Safety Answering Point (PSAP) will undoubtedly be inundated with illegitimate calls attempting to bypass the MAS. Public safety may be jeopardized as a result of a legitimate emergency call being unanswered.

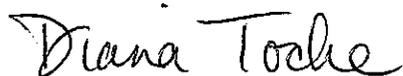
Such a threat to public safety could have occurred earlier this year after CDCR initiated the MAS at Avenal State Prison. When technical difficulties resulted in the MAS being briefly inoperable, inmates were left with the impression that a call to emergency 9-1-1 would result in MAS being inoperable and their cell phones would be usable. The PSAP (an emergency dispatch center in the rural county in which the prison is located) received hundreds of non-emergency calls from inmates attempting to bring down the MAS. Inmates even apologized to the lone emergency dispatcher on duty for calling, but said they needed to call to “unlock” their cell phones. For approximately two weeks, the PSAP had an average of 50 calls a day, generally in early morning or late at night. Had any true emergency call come through during the time the dispatcher was tied up on one of the hundreds of calls, the results could have been tragic.

The inundation of the PSAP went as long as it did because there was no clear rule regarding whether calls to the emergency 9-1-1 were required to be put through or not. CDCR contacted FCC officials to determine what could be done. The only option was for the Sheriff of the county who operated the PSAP to declare that each phone making the calls was harassing the PSAP on non-emergency calls and requesting the wireless carrier to terminate the device’s service as a result. All wireless carriers cooperated, but the solution took a lot of time and effort for the Sheriff, CDCR, and the wireless carriers. Had the proposed rules been in place at the time this occurred, CDCR’s MAS contractor could have blocked the calls upon the Sheriff’s declaration of harassment of the PSAP.

### **III. Requesting Termination of Service to Contraband Devices**

Furthermore, CDCR supports the proposal to require wireless carriers to terminate service to contraband devices and in addition disable cellular devices once identified. We believe that analysis of MAS data and identification of cellular tower connection points will allow a contraband device to be authenticated. Permanently disabling devices identified as contraband serves as a greater deterrent to inmates and provides for a more encompassing approach to combating the serious cell phone problem that exists in prisons. While helpful in the short-term, terminating service to a contraband device is only a temporary solution, as the inmate may be able to procure new service utilizing the same device and illegal activities can then be resumed.

Sincerely,



DIANA TOCHE  
Undersecretary (A)  
Administration & Offender Services