



AMERICAN CORRECTIONAL ASSOCIATION

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Federal Communications Commission
Office of the Secretary
445 12th Street, SW, Room TW-A-235
Washington, DC 20554

RE: Notice of Proposed Rulemaking, Adopted April 29, 2013
Promoting Technological Solutions to Combat Contraband Wireless Device Use
In Correctional Facilities
GN Docket No. 13-111

The American Correctional Association (ACA) is a professional membership organization composed of individuals, agencies and organizations involved in all facets of the corrections field, including adult and juvenile services, community corrections, probation and parole and jails. It has approximately 20,000 members in the United States, Canada and other nations, as well as 100 chapters and affiliates representing states, professional specialties, or university criminal justice programs. For nearly 140 years, the ACA has been the driving force in establishing national correctional policies and advocating safe, humane and effective correctional operations. Today, the ACA is the world-wide authority on correctional policy and standards, disseminating the latest information and advances to members, policymakers, individual correctional workers and departments of correction.

The American Correctional Association believes that contraband cell phones pose a very serious and credible threat to the safety of staff and inmates and to the overall security of the facility. Correctional facility administrators, wardens and staff should have any and all means of combating their use available to them. Simply possessing a cell phone inside of correctional facility is a criminal offense in the federal bureau of prisons and in most states. The number of phones being smuggled into correctional facilities is on the rise and is becoming a greater and greater challenge every day. Likewise, the resources and efforts required to combat contraband cell phones is becoming burdensome for corrections. Even worse, they can and are being used to circumvent facility security and authority, to conduct criminal activities on the outside and to threaten witnesses and others.

Many varying technologies are being developed and continue to be developed to help corrections combat this problem. Our members hope to have access to any all technologies currently available on the market and any new technologies that may become available. Simply stated, we wish to have every available tool in the tool box at our disposal. Given the many cost constraints, physical constraints as well as the operational and administrative issues that frequently arise and limit the ability of state and local correctional agencies, we ask that the FCC

not limit those technologies or eliminate any one technology as an option. Correctional agencies and facilities are all very unique and require flexibility and the understanding that certain technologies may be useful and effective in one facility while others may require a different device or technology. Perhaps the greatest limitation on correctional agencies is their budget. Technologies deployed to combat this problem must be cost-effective, including jamming. Managed Access Systems are effective. However, they may be cost-prohibitive for most agencies/facilities.

The important point to consider is that there is no singular technology that is best or most effective for use throughout corrections. Again, we emphasize the need to have authority to deploy any and all available technologies. We understand the need to limit use, to have oversight and monitoring of certain technologies, namely jamming. We would not expect correctional agencies to have unfettered authorization to use cellular jamming devices. We ask that the FCC simply consider individual petitions for their use and that said petitions be submitted, of course, in consultation with surrounding public safety agencies.

ACA recognizes that there are risks to uncontrolled or unmonitored use of cellular jamming devices. Those risks can very easily be weighed and considered with each individual petition filed with the Commission. The advantages of using cellular jammers would, in some instances, far outweigh the risk of interference with legitimate users. Many prisons, particularly those that are rated medium or maximum security are located predominantly in very rural areas with fairly large swaths of land, wherein the housing units are typically located in the center. Therein, interference or 'overjamming' is unlikely to occur or be a risk.

The American Correctional Association supports the approach developed by the United States Senate Committee on Commerce, Science and Transportation and passed under Unanimous Consent the United States Senate on October 5, 2009. The legislation, known as the ***Safe Prisons Communications Act*** would require correctional agencies to file a Notice of Intent, the Commission to then notify public safety agencies and commercial mobile service providers (CMSPs) within 10 days. The correctional agency would be required to consult appropriately with both and would be required, upon request, provide access to the facility for testing and measurements to determine signal strength and the potential for interference.

The ***Safe Prisons Communications Act***, as passed by the Senate, would allow the Commission 60 days to Act on any such petition and could take all factors into consideration when making a determination. Such factors would include: whether or not there would be harmful interference with emergency services and/or public safety; whether or not there would be harmful interference with commercial mobile service; the precise location of the facility seeking approval as well as its proximity to residential areas. The Senate-passed bill – and the process we endorse – would further require the correctional agency to coordinate with public safety and CMSPs during installation and configuration of any jamming device or system. It, very reasonably, allows for the immediate suspension of authorization if and when there is written notice, supported by affidavit, that there is sufficient interference with commercial mobile service or with public safety communications systems or if and when the Commission

believes an agencies is failing to comply with the regulations as set forth in the approved petition. If a correctional agency was in repeated violation of the regulations, the Commission could revoke authorization.

As stipulated by the ***Safe Prisons Communications Act***, facilities would not be able to transfer authority, would require the granted authority to operate the device at the lowest possible transmission power, to operate it in a directionalized basis when possible and utilize all other interference-limiting capabilities.

We believe that the Commission could set forth as many regulations as possible to adequately control and limit the use of cellular jamming devices by correctional agencies without eliminating their use all together. Such regulations would appropriately protect legitimate and legal commercial mobile service users while protecting public safety and giving correctional agencies another effective tool to combat this very serious problem.

Jamming is operationally effective as well as cost-effective. We maintain that Section 333 of the Communications Act does NOT prevent the FCC from authorizing the use of jamming ILLEGAL wireless device signals. Section 333 merely prohibits the “willful or malicious interference to authorized radio communications.” Given that cell phones are contraband within correctional facilities their use actually constitutes UNAUTHORIZED communications and thus jamming of an UNAUTHORIZED signal would not be and should not be a prohibition under Section 333. On the contrary, we believe the Commission actually has the authority – if not the responsibility – to permit and even help facilitate the blocking of unauthorized and illegal mobile communications, particularly when they threaten the public safety and the security of a secure government facility.

The American Correctional Association recognizes the benefits of other detection and capture technologies including managed access systems (MAS) which are starting to be deployed by various correctional agencies. MAS can be effective, but they are not without their complications nor are they particularly cost-effective to correctional agencies.

The American Correctional Association asks that the Commission consider simplifying the operational deployment of the systems by promulgating rules that: (1) require all CMRS to agree to managed access leases of their spectrum, (2) require CMRS carriers provide notice to MAS operators in advance when making any technical changes to the CMRS network that might adversely impact the MAS operational effectiveness, (3) place explicit quantifiable and reasonable limits on the “over-coverage” of MAS; and (4) provide explicit protection of E-911 performance in the MAS areas absent a specific exemption from the local PSAP.

The American Correctional Association does not endorse any one product, company or specific technology over any other. The ACA advocates for the authorized and, when necessary, the coordinated use of any and all available technologies needed to effectively combat and put an end to this very serious public safety concern. The number of confiscated cell phones within the state correctional systems and the Federal Bureau of Prisons is on the rise. Consequently, this

persistent problem poses a very serious and growing threat to facility security and employee, inmate and public safety. We believe that coordinated and well-developed plans can mitigate this problem through the use of many different technologies. The adoption and promulgation of clear regulations by the Commission that define and limit the use of these technologies will help to solve the problem. Technologies can be further developed and current technologies can be deployed effectively without minimal interference while ensuring maximum coordination between corrections, public safety and mobile services providers.

We ask that the Commission act on all pending petitions and promulgate rules relative to this matter with the greatest degree of urgency as possible. We encourage the Commission to act boldly in response to this very serious public safety threat and give the corrections profession every consideration.

Respectfully,

Christopher Epps, President
American Correctional Association

A handwritten signature in black ink, reading "James A. Gondles, Jr." with a stylized flourish at the end.

James A. Gondles, Jr., Executive Director
American Correctional Association