



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

April 5, 2016

Submitted Online Only

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

RE: *Ex Parte* Submission
*Promoting Technological Solutions to Combat Contraband
Wireless Devices Use in Correctional Facilities*
WC Docket No. 13-111

Dear Ms. Dortch:

With respect to the Field Hearing on Contraband Cellphones being conducted by FCC Commissioner Ajit Pai and South Carolina Governor Nikki Haley in Columbia, South Carolina on April 6, 2016, the Human Rights Defense Center (HRDC) respectfully submits the following list of proposed questions to be considered.

We understand the South Carolina Department of Corrections (SC DOC) has already attempted to address contraband problems by requiring all prison staff members from the Director down to undergo metal detector searches and pat downs when they enter a correctional facility, and that all their belongings must be in a clear bag, which is subject to X-ray. This is a good first step; aggressive prosecution of contraband trafficking by prison employees is also necessary to eliminate the majority of the contraband smuggled into correctional facilities. While Commissioner Pai stated his position regarding contraband cellphones in proceedings related to comprehensive reform of the prison phone industry, seemingly to imply the issues are related, it is imperative that any discussion about this issue address trafficking of contraband by staff as the crux of the problem. News reports nationwide are replete with examples of prison guards and other prison employees and contractors smuggling cellphones to prisoners, often in exchange for bribes.

Moreover, to what extent is the use of contraband cellphones a response by prisoners to the obscene phone rates historically charged by Departments of Corrections and ICS providers?

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To the extent that numerous cellphones possessed by prisoners are smuggled into the institutions by correctional staff, that appears to contradict claims that such cellphones pose a threat to staff; i.e., staff members are unlikely to smuggle contraband which would endanger them or their fellow employees. Comparatively, weapons are not smuggled into prisons by staff in significant numbers.

HRDC respectfully requests that the following questions be addressed to and considered by the panelists at the Field Hearing:

1. Does the panel believe the FCC has statutory authority to regulate intrastate calls made from correctional facilities on contraband cellphones?
2. Does the panel believe the FCC has statutory authority to take actions that directly impact security measures at correctional facilities?
3. To what extent is the effort to eliminate cellphone use by prisoners a ploy to increase revenues through the government monopoly ICS phone system and its attendant commission kickbacks to government agencies?
4. Which Inmate Calling Services (ICS) providers are most heavily involved in the development and implementation of new technologies designed to detect contraband cellphones? Does the current business model for this product include kickbacks to correctional facilities that sign on with ICS providers for detection services (as is the case with the prison phone industry)?
5. What is the total cost to develop, implement and maintain systems designed to detect contraband cellphones? Does the success rate of the technology offset the cost? Given that the number of contraband cellphones in any given facility is unknown, how is the success rate of detection systems determined?
6. What, if any, cost is passed on to prisoners and their families as a result of the usage of systems to detect contract cellphones, such as through higher phone rates? Are costs assessed to all prisoners and their families, or only those found guilty, through due process, of violating contraband policies? Or is the cost paid for by the state as part of its massive corrections budget?
7. How many investigations of SC DOC staff suspected of smuggling cellphones into correctional facilities have been conducted within the last 24 months? How many SC DOC staff members were disciplined for smuggling cellphones into correctional facilities in the last 24 months? How many SC DOC staff members have been prosecuted for smuggling cellphone into correctional facilities? What was the sentence or punishment imposed?
8. What effect will the implementation of proposed technologies to detect contraband cellphones have on the issue of correctional staff trafficking contraband cellphones to prisoners?

9. What is the going rate that staff charge prisoners to smuggle cellphones into institutions? Has that rate gone up or down in the past five years?
10. Has the implementation of metal detector searches and pat downs of all SC DOC staff members when they enter a correctional facility and containment of all belongings in a clear bag which is subject to X-ray reduced incidences of contraband within the SC DOC? If so, by how much? Also, if so, is that an indication that such staff searches constitute a best practice?
11. Will the proposed technologies to detect contraband cellphones affect any persons, businesses or residences located near the correctional facilities in which they are implemented (i.e., with respect to jamming or managed access)?

As a staunch advocate for all prisoners and their families, HRDC remains committed to ensuring that implementation of new communications technologies in correctional facilities does not result in the same ruthless exploitive price gouging of prisoners and their families that has become prevalent in the long-unregulated prison phone industry. In the event intrastate phone calls from contraband cellphones in correctional facilities are deemed to fall under the FCC's jurisdiction, we call on the Commission to continue in its mandate to ensure that any fees and costs associated with technology to detect such calls be funded by correctional agencies as part of their security functions, and not be foisted onto the backs of prisoners and their families – such as through inflated phone rates in contracts that include cellphone detection systems.

Thank you for your time and attention in this regard.

Sincerely,



Paul Wright.
Executive Director, HRDC

cc (by/email):

Governor Nikki Haley
Bob Wells, Executive Director, South Carolina Bar Association
Chairman Thomas Wheeler
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
Commissioner Michael O'Rielly
Matt DelNero, Chief, Wireline Competition Bureau
Gigi Sohn, Counselor to Chairman Wheeler
Rebekah Goodheart, Legal Advisor to Commissioner Clyburn
Travis Litman, Senior Legal Advisor to Commissioner Rosenworcel
Nicholas Degani, Legal Advisor to Commissioner Pai
Amy Bender, Legal Advisor to Commissioner O'Rielly