



MARK SANFORD, Governor
JON OZMINT, Director

October 21, 2009

Chairman Julius Genachowski
Federal Communications Commission
445 12th St., NW
Washington DC 20554

Dear Chairman Genachowski,

The South Carolina Department of Corrections (SCDC) urges you to quickly initiate Commission action needed to address the critical public safety issue of Commercial Mobile Radio System (CMRS) use in correctional facilities. An unintended and unanticipated side effect of the nation's surge in CMRS usage has been illicit use in correctional facilities across the country and the resulting impact on crime against the public and correctional officials. While the CMRS industry should be proud of creating economic growth and enhancing public safety, in this area they have turned a blind eye to the issue. They have repeatedly urged the Commission to deny corrections officials options to address the problem and have done so by interpreting Section 333 of the Communications Act in a way that ignores its legislative history.

SCDC filed on July 13, 2009 a *Petition for Rulemaking* seeking rules to permit CMRS jamming in correctional facilities.¹ This petition has now been endorsed by 30 state prison systems and 2 other jurisdictions including the District of Columbia. The Petition was carefully crafted to respect the legitimate concerns of the CMRS industry and contains many safeguards.

Recently, the Commission issued an experimental license, call sign WF2XBF, File 0202-EX-PL-2009 to Tecore Corp. for "a demonstration organized by the Maryland Department of Public Safety and Correctional Services to understand alternatives to call-jamming that may be used to manage the use of cell phones in prisons."² The Tecore system is designed to terminate unauthorized cell phone calls made from within a prison, while allowing authorized cell phone calls--including all calls to 911--to be connected through the wireless carrier as usual.³

¹ *Petition for Rulemaking* of South Carolina Department of Corrections ("Petition"), Docket 09-30, July 13, 2009
(http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=7019934637)

² FCC Public Notice September, 2009,
(http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-293229A1.pdf)

³ *Ibid.*

We welcome the initiative of Tecore to explore alternative technologies and would like to use this letter to comment on their technology. We stated in the Petition:

There is no single solution that will solve this problem in the wide variety of state and local correction facilities in our country. Given unlimited resources, Petitioners might attempt to address the problem through a variety of technical and nontechnical measures. But Petitioners do not have unlimited resources. In fact, some correctional systems have insufficient funding to fulfill their core mission. The real problem is finding the most cost-effective solutions for individual correction facilities that vary greatly in their physical characteristics.⁴

Solutions like those presented by Tecore could play a reasonable role in addressing the illicit use of CMRS services in *some* corrections facilities, but only if certain characteristics of such systems are addressed in the Commission's policy deliberations. We do not think this technology totally obviates the need for jamming and strongly believe that the choice of specific technological solutions for a specific facility must be left to the professionals entrusted by their state and local governments to protect the safety of corrections facilities, their staff, the public, and inmates – subject to FCC regulations that protect other legitimate communications users from harmful interference.

The South Carolina prison system and many other corrections systems prohibit *all* cell phone use. Any use of CMRS services within these facilities amounts to a security risk. Thus there is no question of sorting authorized calls from unauthorized calls. The Commission has generously provided adequate spectrum for Part 90 radio systems. This is how we manage our operations and CMRS services are not needed at all.

Most SCDC facilities have large spatial buffers around them, which facilitates either jamming without harm to other users sorting or cell phone locations based inside or outside the facility as with the Tecore system. But this is not always the case. Below is a photo of Sing Sing Correctional Facility in Ossining, NY.



Sing Sing Correctional Facility in Ossining, NY

⁴ *Petition* at p. 2

Note that in the East and Northeast directions there are public roads quite close to the fence line as well as residences quite close. Thus any Tecore-like system would have to deal with calls on these public roads, from neighbors in their residences, and from visitors to these neighbors. It is not simply a question of dealing only with a static population of cell phones in the area that can be permitted.

A major concern about the use of this technology is cost. This technology both denies calls made within the correction facilities and connects authorized calls from the same area. Thus it is functioning in part as a CMRS base station handling traffic for CMRS carriers. It would seem reasonable then that most of the cost of such a system should be borne by the CMRS carriers themselves as they are getting direct benefit from the system. It is clear that the Commission will have to determine what cost splitting serves the public interest for such a system as the CMRS industry is unlikely to have the correct incentives to do so.

This type of technology would also only work if all CMRS carriers had a Commission-mandated obligation to cooperate in such installations if so requested by a correctional facility and if the local physical circumstances make it feasible. While the major CMRS carriers may be interested through their participation in CTIA, the four major carriers are not the only CMRS carriers in the country. Indeed, in the rural areas where major corrections facilities are often located, there are often smaller carriers as the large carriers commonly eschew such territory.

Finally, while Tecore may have the capability to deal with most or all CMRS technologies used today, unlike jamming systems this technology must be continually updated as CMRS carriers update their air interfaces, both physical layer and higher layers. Any reliance on such technology by correctional facilities must be accompanied by an obligation mandated by the Commission for carriers to give advance notice of technical changes that might affect the system and to delay any such changes until the modifications for the Tecore-like system have been developed, tested, and installed. Such an advance notice requirement would be unprecedented and we see no indication that the CMRS industry is aware that this would be a direct implication of using such technology for denial of CMRS service within corrections facilities.

The testing that FCC announced also included “several vendors (who) plan(ned) to demonstrate technologies that are designed to passively locate cell phones.” We are aware of this technology and agree that in a benign environment it works in the technical sense. We discussed such alternatives in our *Petition*.⁵ The basic problem is that it is often not practical in the real world. Multiple sensors can indeed locate the approximate area of cell phone use. Such sensors would, of necessity, be in areas prone to vandalism and retrofitted wiring supporting them would also be vulnerable. Furthermore without an instantaneous response 24/7 to such detection, the arriving correctional officers would be likely to find that the offending cell phone is no longer in that location.

⁵ *Petition* at p. 4

Many petitioners before the Commission seek new spectrum for their own projects. We seek no such additional spectrum. We seek to amend §22.3(b) to make clear that CMRS service within corrections facilities is not within the scope of carriers' licenses and then allow us to use the most cost effective solutions to eliminate the threats to public safety that are an unintended consequence of the CMRS industry's spectacularly successful growth. Depending on the physical circumstances of a corrections facility, jamming, the Tecore technology, passive location, or other technology may be the cost-effective solution to protect the public safety. We want the tools to make such informed choices subject to clear limits on protecting the spectrum use of legitimate users.

Sincerely,

A handwritten signature in black ink, appearing to be "Jon Ozmint", written over a horizontal line.

Jon Ozmint

JO/JG:ajr

cc: Comm. Michael J. Copps
Comm. Robert M. McDowell
Comm. Mignon Clyburn
Comm. Meredith Attwell Baker
Mr. Julius Knapp
Ms. Ruth Milkman
Admiral James Arden Barnett
Docket 09-30