



Response to National Telecommunications and Information Administration notice of inquiry: Preventing Contraband Cell Phone Use in Prisons [Docket No. 100504212-0212-01]

Agency: U.S. Department of Commerce's National Telecommunications and Information Administration (NTIA)

The following is a brief overview of ShawnTech Communications, Inc. and our actions taken over the past 18 months to find a long-term solution to the current problems with mobile devices inside correctional facilities. In addition, we look to provide leadership and insight into the future of inmate cellular communications. We believe we have found the components required to begin to test, deploy and develop a repeatable solution that demonstrates managed access as a superior solution to other technologies.

We cannot be successful without the partnership and support of federal, state and local agencies; CTIA; cellular carriers; and the manufacturers of the equipment/software. We already have support from the correctional industry and are working selectively with carriers and equipment/software providers. To be successful, we need to begin detailed testing within an operational prison, working with inmates and encountering all the related issues and challenges. We have a current special temporary authorization (STA) pending with the FCC for Lieber Correctional Institution (CI) in South Carolina, support from the correctional industry and pending support from a specific carrier. We want to expedite this testing plan, and request that the NTIA support our efforts.

SHAWNTECH

- Over 18 years of experience with inmate telephone communications.
- Supported the designed feature sets and system configurations for current inmate call control and recording systems.
- Supports over 350 correctional facilities (20% of state facilities today).
- Serves as a trusted advisor to senior officials (Directors, Commissioners, Secretaries of Corrections)
- Possesses a board of advisors of five ex-senior officials who ran the Kentucky, Louisiana, Ohio, New York and Virginia Departments of Correction. These seasoned professionals have a combined experience of over 200 years.
- Was invited personally by Gary Maynard, the Director of Maryland's Department of Corrections, to participate, attend and provide insight into the testing at Jessup HOC .



- Given unlimited access by Jon Ozmit, the Director of South Carolina’s Department of Correction, to his prisons for detailed testing and deployment of a managed access system (STA Pending at Leiber CI).
- Influenced the Safe Prison Communication Act of 2009, which proposes enabling other technologies and not only jamming. Provided written testimony to the Senate hearing on cell phones in prisons. The American Correctional Association and ASCA modified bylaws to add other technologies besides jamming.
- Developed/drafted the petition for Mississippi Department of Correction, which was filed with FCC to add “other technologies and managed access.”
- Continue to provide education of senior correctional official on the pros and cons of detection, jamming and managed access technologies (See attached presentation).
- Reviewed three (3) managed access products/manufacturers. Systems including software and database management would provide easy management of black-, white- and gray-listed numbers. ShawnTech today manages Personal Authorized Numbers (PANs) for many of the 320K inmates we support.
- Have a STA pending with the FCC, which requested we work closely with cellular carriers.
- Developed a working draft of a detailed testing plan with a phased approach, including milestones for CDMA, I-DNE, GSM and 3G & 4G when available. This includes testing 911 access, as well as ensuring the public around the secure umbrella will have access to make and receive calls.
- Working with the National Institute of Justice, who will serve as a monitor and third party reviewer to report to the industry, the National Law Enforcement & Correctional Technology Center of Excellence.

After speaking with many of our senior-level industry contacts and many of our 350 customers, it is apparent that many states require state-issued mobile devices to improve efficiency and communications within the department of corrections. These customers must enable the state-issued devices, which are able to operate in and around a correctional facility. Jamming would prevent the use of state-issued mobile devices, hindering their intended benefits.

Recommendations

- State Laws – We suggest that all states modify their laws to make it illegal for unauthorized mobile devices to operate within prisons. It is recommended that Colorado’s laws on this issue be reviewed.



- Federal Laws – We suggest that the wording of the Cell Phone Contraband Act S1749 be modified to enable authorized devices to be allowed in federal, state and local correctional facilities. The current wording of the law will hinder future usage of mobile services and devices within the correctional industry. Technology can and will be able to control and stop inmates from using unauthorized mobile devices, and it is imperative that we ensure the laws enable allowed and authorized mobile devices supported by commercial carriers.
- 911 Calls – Currently, inmates are not allowed to make 911 calls. NENA (National Emergency Number Associations) can provide comments as to whether illegal mobile devices within correctional facilities are required to allow 911 calls. These limitations and conditions are imposed upon an inmate’s telephone privileges to ensure that these are consistent with other aspects of the facilities correctional management responsibilities. The Federal Bureau of Prison and State Department of Corrections relies upon wardens to locally manage, set limitations and enforce inmate access to telephone usage to ensure the security or good order of the institution, and/or to protect the public. Restrictions on inmate phone usage may also be imposed as a disciplinary sanction. All institutions have established monitoring procedures to preserve the institution’s security, orderly management and the safety of the community. Currently, most inmate telephone call control systems have the following restriction, which is used by federal, state and local agencies: Permanently Block – Live operator, 700/800/900/976/950 and international direct distance dialing, and Permanently Block – 411, 611, 911 and 0 (operator dialed). Unauthorized mobile devices within the secure area should not be allowed to make 911 calls.
- Privacy Issues – Inmates waived their rights to privacy; they are informed in writing upon intake, with posted signs throughout the cell blocks and with audio notification that all calls are monitored and recorded. Inmates are using mobile devices to circumvent the current inmate call control systems in place, which are being monitored by investigative or law enforcement officers. Courts have assumed that prison officials constitute law enforcement officers and that prison monitoring occurs if conducted pursuant to an established policy (as mentioned above) related to the institutional security. This policy is generally applicable rather than directed at a particular inmate, and is made known to inmates per Title III. Title III generally prohibits the use of any “electronic, mechanical, or other device” to “intercept” and wire, oral or electronic communications in the absence of authorization by a court order (18 U.S.C. 2511 (a), (b) 1994). The statute provided several exceptions to this general prohibition, however. For example, it permits interception of oral communications uttered by a person with no justifiable expectation of privacy. (see 18 U.S.C 2510(2) Interception of wire communication—the type of communication at issue here—does not similarly turn on exception of privacy. Title III contains specific conditions under which interception of such communications is permissible. Section 2510 (5)(a), for example, permits interception of wire communications by “an investigative or law enforcement officer in the ordinary course of his duties.” The correctional industry has been operating this way for more than a decade; wireless communication should be considered under the same Title III.



Conclusion

We feel the technology is available to start a long-term test to benchmark specific protocols/frequencies (CDMA, I-Den, etc.) and provide a real test of managed access products at a controlled site. We believed that the best long-term solution is to have the correctional industry take control of the airspace over the correctional facility to protect the public, staff and other inmates. Technology is currently capable of providing this feature and allowing approved mobile devices to make and receive calls within this secure airspace. The laws and policies are currently in place to intercept, monitor and record illegal or unauthorized inmate communication (they have not been challenged yet on the wireless issue). The infrastructure of the correctional industry is moving towards wireless communications with current technology including inmate kiosks, Mp3 music downloads, emails and other services. We know the carriers are willing to work with us, but are most concerned about the liability issue of the public being able to make a 911 calls if required. We suggest that the federal government work with the carriers to reduce their liability concern in and around the prison. Some minor modifications need to be addressed with the Cell Phone Contraband S1749 to provide flexibility for future wireless usage within correctional facilities.

We are positive that we are on the correct path to identify and test a solid solution, and would like the support of the NTIA and other government agencies to help with some of the aforementioned issues. The addition of any funding support and/or grant dollars that might be available would only accelerate the process, thus enabling the correctional industry to operate at a higher level. We are a minority small business enterprise that has spent in excess of six figures on these issues trying to help our current customers and industry relationships.

Please contact me directly at 818-292-1300.

Thank you for your time and consideration.

David Gittelson
Director of New Business