



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS TO REFRESH THE RECORD ON PROMOTING TECHNOLOGICAL SOLUTIONS TO COMBAT CONTRABAND WIRELESS DEVICE USE IN CORRECTIONAL FACILITIES

GN Docket No. 13-111

Comments Due: 30 days from publication in the Federal Register
Reply Comments Due: 45 days from publication in the Federal Register

With this Public Notice, the Wireless Telecommunications Bureau seeks to refresh the record in this proceeding that addresses the serious threat of contraband wireless device use by inmates in correctional facilities. Developing a more comprehensive and current record will facilitate an evaluation of potential next steps necessary to eliminate this challenging public safety problem. The Commission initiated this proceeding to examine various technological solutions to the contraband problem. Through its March 2017 *Order* and *Further Notice*, the Commission streamlined the authorization process for contraband wireless device interdiction systems in correctional facilities by eliminating certain filing requirements and providing for immediate approval of lease applications filed to operate these systems.¹ In the *Further Notice*, the Commission sought further comment on a process for wireless providers to disable wireless devices identified as contraband, on whether to require advanced notice of wireless provider network changes to solutions providers to maintain system effectiveness, and on the viability of other technological solutions.

Since the release of the *Order* and *Further Notice*, the Commission has conducted substantial outreach and encouraged stakeholder cooperation in deploying effective technologies. Evolving wireless technologies and wireless provider networks have necessitated adjustments in the deployment and maintenance of contraband interdiction systems. Stakeholders, including wireless providers, contraband device interdiction solutions providers, and corrections officials, have gained meaningful experience using various tools to combat contraband wireless devices. Our goal is to leverage these experiences to better facilitate the nationwide deployment of legal and cost-effective contraband interdiction systems. We seek to refresh the record on the proposals and questions raised in the *Further Notice* and invite additional comment on the successes and ongoing challenges of currently employed solutions and those under further

¹ See *Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities*, GN Docket No. 13-111, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 2336 (2017) (*Order* and *Further Notice*); see also *Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities et al.*, GN Docket No. 13-111 *et al.*, Notice of Proposed Rulemaking, 28 FCC Rcd 6603 (2013).

review and development. We encourage commenters to be as specific as possible when addressing the below issues.

First, we seek to refresh the record on all aspects of the proposed Commission process that would require the disabling of contraband wireless devices by wireless providers following identification.² As contraband wireless device use in correctional facilities continues to be a threat to public safety, despite continued voluntary efforts to mitigate the problem, would adoption of a rule-based disabling approach be a more effective, wide-scale solution? We seek additional comment on the specifics of the proposed disabling rules. CTIA, the Wireless Association (CTIA), recently reported to the Commission that it has been working successfully, along with its members companies, on processes in various states using a model court order, and that wireless providers are in fact ceasing service to contraband devices pursuant to court orders they have obtained.³ Therefore, we also seek additional comment on specific successes and failures associated with obtaining and executing court orders in the various states where this approach has been pursued. How many contraband devices have been disabled pursuant to court orders, and in what jurisdictions? Has the process been overly burdensome or costly and are there jurisdictions where court orders cannot be obtained and why not? CTIA also claims that the approach of disabling contraband devices added to the Stolen Phone Database is working.⁴ We invite comment from all stakeholders on the effectiveness of using this database to disable contraband wireless devices and render them unusable across multiple wireless provider networks. We would welcome comment on specific advantages or disadvantages associated with this approach.

Second, we seek to refresh the record on requiring notification to solutions providers of wireless provider system technical changes,⁵ recognizing that lack of timely notice of wireless provider system upgrades can render contraband interdiction systems ineffective. What is the current state of communications between wireless providers seeking to upgrade networks and solutions providers that must react to network changes?⁶ Have increased coordination efforts substantially improved the ability of solutions providers to ensure effective contraband interdiction system deployments, or is Commission action appropriate to facilitate enhanced communications? CTIA indicates it has developed a Managed Access System Stakeholder Checklist that emphasizes the need for vendors, corrections officials, and wireless providers to establish points of contact to enhance stakeholder communication and coordination on the deployment of future spectrum bands.⁷ Are stakeholders using the Checklist and taking into consideration, in particular, the technical recommendations? If not, why not? Are financial

² See *Further Notice*, 32 FCC Rcd at 2366-78, paras. 79-116.

³ See Letter from Scott K. Bergmann, Senior Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission, at 2 (April 7, 2020) (CTIA *Ex Parte*).

⁴ *Id.* at 2-3.

⁵ See *Further Notice*, 32 FCC Rcd at 2378-79, paras. 117-121. Such network changes include transmitter power levels, changes in antenna direction, addition of new frequency bands, deployment of a new air interface, etc.

⁶ CTIA recently reported to the Commission that wireless providers have initiated regular monthly calls with managed access system vendors to coordinate implementation and maintenance efforts, resulting in more advanced notice of managed access system deployments and carrier network changes that could affect system effectiveness. CTIA *Ex Parte* at 1-2.

⁷ See CTIA *Ex Parte*.

considerations a factor? Are there additional issues that should be added to the Checklist, and is there any action the Commission could take to facilitate its implementation? Would further standardization of best practices involving notification of network changes be beneficial? If so, what type of notice, and what additional best practices should be included? Relatedly, we also seek comment on the ability of wireless providers to configure their networks and make system changes to avoid the need for major contraband interdiction system upgrades. If these network configurations are achievable, we seek comment on whether wireless providers would, as a matter of best practices, implement them in areas proximate to correctional facilities or, alternatively, compensate solutions providers to make contraband interdiction systems upgrades required to adjust to wireless provider network technical changes that significantly impact contraband interdiction system effectiveness. We understand that this approach has been adopted internationally and seek specific comment on whether it has been successful.

Third, we invite further comment on other technological solutions addressed in the *Further Notice*, including quiet zones, network-based solutions, and beacon technology.⁸ We seek to refresh the record on any developments for these and any other technological solutions, and the regulatory steps the Commission should take to facilitate the development and deployment of these new technologies. We request focused comment on the state of carrier network solutions, or the concept of “geofencing” in the contraband wireless device context.⁹ We seek to update the record on whether there have been technical developments making such an approach a feasible solution to identifying the location of, and ultimately terminating, contraband wireless devices. We seek comment on whether the Commission should require wireless providers to not exceed a specific signal strength in the proximity of a correctional facility, or to minimize or remove service-quality signals entirely in the proximity of a facility. For example, should we require a wireless provider to treat the walls of a correctional facility (or some subset of such facilities) the same as the edge of the license areas? We also seek to refresh the record on what network modifications, if any, would be required to track and identify contraband devices on carrier networks to a sufficient degree of location accuracy, and at what cost. Should we require wireless carriers to use existing and future network capabilities to accomplish detection and disabling of contraband devices? What advances in location technology could enable carriers to accurately locate contraband devices in correctional facilities for disabling? Are there technical, privacy, legal, or other considerations that are relevant to this approach?

Fourth, we note that the evolution of wireless technology from 2G to widespread 3G/4G and ultimately 5G deployments requires continued managed access system upgrades to maintain long-term effectiveness. We understand that many managed access system solutions depend largely on forcing contraband devices from 3G/4G to 2G services, which carriers are rapidly phasing out, and current network security issues can prevent these systems from capturing calls made from 5G phones. In April 2019, CTIA and the Association of State Correctional Administrators (ASCA) submitted a Task Force Status Report that described next generation

⁸ See *Further Notice*, 32 FCC Rcd at 2380-83, paras. 122-132.

⁹ The Commission previously sought comment on the idea of creating a geo-fence within which contraband wireless devices would be inoperable, and relatedly, the concept of requiring wireless providers to identify and disable contraband devices within the geo-fence using their own network elements, including base stations and handsets/devices, as well as the costs and benefits of such a process. See *Further Notice*, 32 FCC Rcd at 2381-82, paras. 128-29.

managed access system solutions as “MAS Evolved.”¹⁰ The report recommended that wireless providers establish roaming agreements with solutions providers for network security reasons to enable newer generation services on managed access system networks. We understand that a key feature of a MAS Evolved solution involves use of roaming agreements allowing a MAS Evolved system to block calls by preventing authentication on the network, and enabling newer generation services on managed access system networks where calls are captured without forcing the devices down to 2G.

We seek comment on how this approach can be more effective, less complex, easier to manage, and less costly to implement when compared to a more traditional managed access system deployment. If full roaming partners, can solutions providers leverage their small cell deployments to create a virtual fence and enhance the ability to identify and block contraband phones? Would this approach lead to a greater diversity in types and areas of contraband interdiction system deployments? What steps can the Commission take to facilitate the widespread implementation of MAS Evolved as a solution? We seek comment on how the wireless providers are working with vendors to promote MAS Evolved and how the Commission can support these efforts. Would a standardized template roaming agreement improve the effectiveness of MAS deployments and encourage expansion? We seek focused comment on the status of the development and execution of roaming agreements in order to promote MAS Evolved solutions. We request that commenters be specific regarding how many states and how many correctional facilities have been involved in testing or deploying MAS Evolved solutions. In addition to the execution of roaming agreements, are there other approaches that could be developed by the wireless providers and/or the vendors to add features or services and help defray the cost of MAS deployments and operations? Are there specific approaches or other examples of which the Commission should be aware? How can the Commission further support these efforts? Are there specific steps the Commission can take to help coordinate stakeholder efforts? Are there other voluntary actions that stakeholders have taken in order to promote MAS Evolved?

Fifth, given the development of newer technologies and applications for addressing contraband device use, we seek comment on whether the leasing rules adopted in 2017 remain effective in facilitating spectrum use agreements between wireless providers and solutions providers. Should the Commission revise these rules or implement further streamlining initiatives in its secondary markets processes? We recognize that, for budgetary reasons, some correctional facilities are seeking more mobile solutions with less reliance on permanent fixed deployments. Should the Commission amend its rules or update its licensing policies/databases to better accommodate these newer solutions and if so, how?

Sixth, we note that the Commission has not pursued regulatory action on jamming technologies by state or local entities given the prohibition against willful or malicious

¹⁰ Letter from Scott K. Bergmann, Senior Vice President, Regulatory Affairs, CTIA, and Kevin Kempf, Executive Director, ASCA, to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 13-111 (April 26, 2019) (Contraband Phone Task Force Status Report). The filing included a status report, testbed report, and other attachments. The Contraband Task Force is comprised of CTIA, the Correctional Leaders Association f/k/a the Association of State Correctional Administrators, the Federal Bureau of Prisons (an ex officio member), various wireless providers, and state corrections officials from various individual states. The Task Force has been examining the technological, legal, and administrative challenges and solutions to combat this problem.

interference in section 333 of the Communications Act, as amended.¹¹ We recognize that limited testing of jamming technologies has occurred with federal oversight, consistent with the statute, and the Commission continues to support efforts to obtain more data on this type of solution when tested in authorized environments. As a substantial number of corrections officials continue to seek a “jamming” solution or its equivalent, we do seek comment, however, on the potential for wireless providers to voluntarily deploy base stations in the vicinity of a correctional facility that would, in effect, result in the blocking of their own signals in all or part of a correctional facility, thereby not resulting in a violation of section 333. Would such a solution be feasible in certain areas of the country and at what cost? Wireless providers presumably have all relevant information about the radiofrequency signal environment surrounding a correctional facility they serve. Accordingly, would this type of wireless provider-driven approach alleviate concerns regarding difficulties in coordinating communications with third party solutions providers and the associated need for contraband interdiction system upgrades?

Pursuant to sections 1.415 and 1.419 of the Commission’s rules,¹² interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20-304 (March 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

¹¹ 47 U.S.C. § 333.

¹² 47 CFR §§ 1.415, 1.419.

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Ex Parte Rules. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹³ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation.

If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission’s rules.¹⁴ In proceedings governed by section 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf).¹⁵ Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

Additional Information. For further information, contact Melissa Conway of the Wireless Telecommunications Bureau, Mobility Division, at (202) 418-2887 or Melissa.Conway@fcc.gov.

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¹³ See *id.* §§ 1.1200 *et seq.*

¹⁴ *Id.* § 1.1206(b).

¹⁵ *Id.* § 1.49(f).