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June 4, 2024

Chairwoman Jessica Rosenworcel
Federal Communications Commission
45 L Street NE
Washington, DC 20554

RE: FCC's Position on Cell Phone Jamming in State Prisons

Dear Chairwoman Rosenworcel:

I am writing to express my concern and objection to the Federal Communications Commission's policy prohibiting state and local governments from using cell phone jamming devices within prisons and jails. Because contraband cell phones continue to be used to plan and orchestrate violent attacks and other criminal activity, I strongly urge you to reconsider the FCC's prohibition on the use of cell phone jamming devices in state and local jails and prisons.

The prevalence and use of contraband cell phones in prison poses a real and substantial safety risk to correctional officers, visitors, inmates, and the public at large. In addition to being legally inconsistent with the statute, the FCC's prohibition limits legitimate law enforcement tools, presents dangerous conditions for correctional officers, and leads to the escalation of criminal enterprises within the prison system.

In Georgia alone, 8,074 contraband cell phones were confiscated in 2023, with 5,482 confiscated to date in 2024. Recently, an incarcerated leader of the infamous street gang, "Yves Saint Laurent Squad," used a contraband cell phone to order a hit which resulted in the death of an 88-year-old Georgia veteran.¹ A gang leader in North Carolina was able to order a kidnapping of a prosecutor's father via a cell phone in prison.² In California, prison gangs used contraband cell phones to order murders within the prison system and traffic drugs.³

¹ <https://www.wsbradio.com/news/local/ga-prison-gang-tried-have-guard-killed-sent-hitman-wrong-house-gbi-says/NEUHLUJ23VFQTA57MT7JKVKVHU/>.

² <https://www.wral.com/story/jurors-hear-accused-kidnapping-mastermind-using-cellphone-in-prison/15776355/>.

³ <https://www.latimes.com/california/story/2023-01-30/cell-phones-prison-mexican-mafia>; see also <https://www.cbsnews.com/sacramento/news/2-aryan-brotherhood-prison-gang-members-plead-guilty-to-murders-at-california-prisons/>.

Unfortunately, on multiple occasions, the FCC has reiterated its position that the use of cell phone “jammers” is prohibited, and that the prohibition extends to state and local governments. *See* FCC Enforcement Advisory Nos. 2014-05, 2012-02, and 2011-03. That prohibition, however, goes far beyond any reasonable interpretation of the relevant statutes, and amounts to an unlawful administrative takeover of legislative authority. *City of Arlington v. FCC*, 569 U.S. 290, 297 (2013) (an agency’s action taken beyond its jurisdiction is *ultra vires*). The purported statutory basis for the FCC’s prohibition on jammers comes from 47 U.S.C. §§ 301, 302a(b), and 333, but those statutory provisions do not address the use of cell phone technology by states.

Most notably, under 47 U.S.C. § 333, “[n]o *person* shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act...” (emphasis added). As an initial matter, the applicable definition of “person” under 47 U.S.C. § 153(39) does not expressly apply to government agencies, departments, or instrumentalities, so any rule or interpretation applying to the State of Georgia or its agencies is beyond the FCC’s delegated statutory authority. *See Nat’l Fed’n of Indep. Bus. v. DOL, OSHA*, 595 U.S. 109 (2022) (administrative agencies are creatures of statute and possess only the authority that Congress has provided). The provisions of 47 U.S.C. §§ 301 and 302a(b) are similarly inapplicable to state governments for the same reason, i.e., the respective prohibitions are limited to “persons,” which does not include state or local governments.

Furthermore, your enforcement policy prohibiting jamming devices no longer serves the public interest. The most recently enacted statute that the FCC’s position relies upon, 47 U.S.C. § 333, was enacted in the early 1990s, years before prison inmates began using contraband cell phones to plan and engage in unlawful and dangerous behavior. Nothing in the language of 47 U.S.C. § 333 prohibits the FCC from revising its position to allow state agencies to use cell phone jamming devices in prisons. In fact, the United States Bureau of Prisons has recognized the potential value of cell phone jammers already and is permitted to use jamming devices at several penitentiaries, including at least one in Georgia.⁴

I ask that the FCC consider the recognized danger that a ban on the use of cell phone jamming devices in state prisons poses. I ask that you and the Commission take immediate action to allow for the use of these jamming devices in state prison systems. Updated guidance consistent with the language of the Communications Act would help to further our efforts to keep people safe. The Georgia Constitution declares that it is the paramount duty of government to protect persons and property. Ga. Const. Art. I, § I, Para. II. The easiest way to protect persons from the harms caused by contraband cell phones is to allow prison officials to use existing cell phone jamming technology.

Sincerely,



Christopher M. Carr
Georgia Attorney General

⁴ https://www.bop.gov/resources/news/pdfs/dir_carvajal_written_statement_20220726_hearing.pdf.