

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities*, GN Docket No. 13-111

We all can agree that cellphones in the hands of prisoners can result in criminal and dangerous activities. I also commend the wireless industry for working with the Commission and correctional facilities on this complex and challenging issue. There are many stakeholders with varied interests that need to be balanced, and this has proven to be a difficult task.

I am generally supportive of, and will approve, our efforts to facilitate the processes for implementing contraband interdiction systems (CIS). Streamlining and expediting the necessary Commission approvals for such systems makes sense. Correctional facilities should get quick action on their requests if they decide to implement a CIS. I will admit, however, that I am not clear as to how often these processes will be used. It seems like these systems are expensive and that there are alternatives, such as metal detectors, that are cheaper and potentially more effective at detecting all contraband, including cellphones.¹ Regardless, these systems may be a viable option for some correctional facilities and it remains their choice as to whether to pay the requisite costs and install these systems.

I do have reservations about one provision in the item – the requirement that licensees negotiate in good faith with CIS providers and, if they fail to come to a timely agreement, a CIS provider can file for special temporary authority (STA). Commission staff then has the right to grant the STA, despite not having licensee consent, if they find there was a lack of good faith. Since the order notes that wireless providers have been collaborating with entities seeking authorizations for CIS deployments, I am not sure this requirement is really necessary. But, my biggest concern is the precedent we are setting without clear statutory authority and how this language could be implemented going forward. While I have no concerns about the intentions of the people in this room, we have seen in the past how well-intentioned language and policies can be reinterpreted and expanded over time. Hopefully, we will not see any unintended consequences arise from this provision a Commission or two down the road.

I appreciate that edits were accepted, however, to provide licensees more time to respond if a CIS provider files an STA alleging that a licensee was not negotiating in good faith. Additionally, edits were added to clarify who is responsible for implementing a request from a PSAP that it does not wish to receive calls from a certain correctional facility and to seek further comment on whether and how licensees should provide CIS providers with advance notification if they implement spectrum or technology changes.

And while I support the further notice where we seek comment on additional ideas that were raised in the record, I have concerns about some of these concepts and may not be able to support them if they were to be contained in a final order. These include: the liability issues that wireless providers may

¹ See, e.g., Don Thompson, *California Tries Again to Thwart Prison Cellphone Smuggling*, ASSOCIATED PRESS, Dec. 18, 2016, <http://bigstory.ap.org/article/079f4026f3b94031a26134eeca5b7bea/california-tries-again-thwart-prison-cellphone-smuggling>; Ashley Fantz, *Drugs, Money, Love and Cell Phones: How Prison Guards Go Bad*, CNN.COM, June 27, 2015, <http://www.cnn.com/2015/06/25/us/new-york-prison-break-contraband-smuggle/>; GAO, BUREAU OF PRISONS, IMPROVED EVALUATIONS AND INCREASED COORDINATION COULD IMPROVE CELL PHONE DETECTION 25 (Sept. 2011), <http://www.gao.gov/products/GAO-11-893>; OFFICE OF THE INSPECTOR GENERAL, U.S. DEP'T OF JUSTICE, REVIEW OF THE FEDERAL BUREAU OF PRISONS CONTRABAND INTERDICTION EFFORTS 31-32 (June 2016), <https://oig.justice.gov/reports/2016/e1605.pdf>.

face to disable phones that have been identified as being within a prison, the burdens of creating quiet zones in and around correctional facilities, and the possibility that the Commission would mandate beacon technologies, which is not a technology neutral approach. Regardless of these concerns, as always, I will keep an open mind and will work with my colleagues, Commission staff and all interested parties on this issue going forward.

Lastly, I do want to make one position crystal clear: no matter how this proceeding moves forward, I will not support or approve of any form of jamming technologies.

I thank the staff for their efforts and for taking the time to answer my questions.