
OFFICIALS CANCEL PLANNED DEMO OF CELLPHONE JAMMING EQUIPMENT

Texas state prison authorities have canceled a scheduled Thursday demonstration of mobile phone signal jamming equipment because they said they did not want to violate a federal prohibition on use of the technology by non-federal government entities.

"At every turn, we have attempted to identify a legal way to perform this test so that we could move forward," said Oliver Bell, chairman of the Texas Board of Criminal Justice, which oversees the state's prison system. "The bottom line at this point is that we have not identified a legal method. As such, I feel it is inappropriate to conduct the test. I cannot, in good faith, violate the law in front of our nearly 38,000 employees and then demand they violate no law under threat of prosecution."

"Through our ongoing dialogue with the Texas Attorney General's Office, we have come to the conclusion that proceeding with this presentation would violate federal law, and we are not willing to violate the law in the pursuit of protecting it," added Texas Department of Criminal Justice Executive Director Brad Livingston.

"Cellular phone jamming technology would be a valuable tool in controlling illegal cell phones introduced into our prisons, and we would welcome the use of this technology should the law allow it," he added yesterday. "We are committed to working with the Governor's Office, Federal Communications Commission, state lawmakers and our Congressional delegates to have this law changed, but until jamming wireless cell phone signals becomes lawful, I am not going to ask any TDCJ employee to violate federal law."

The decision was criticized by Howard Melamed, president and chief executive officer of Coral Springs, Fla.-based CellAntenna Corp., which had been invited to demonstrate its equipment at the Travis County State Jail in Austin and has petitioned the FCC to modify its rules to allow use of the equipment. In November, CellAntenna conducted a demonstration at a prison in South Carolina despite efforts by CTIA to convince the FCC to move to block the demonstration because it violated the 1934 Communications Act's ban on the use of mobile phone jamming technology by non-federal government entities..

"They chickened out," Mr. Melamed told TRDaily today, referring to Texas authorities. "Obviously, people must have gotten to them." He argued that the demonstration would have been legal and that CellAntenna didn't need authorization from the FCC. "It doesn't seem necessary to have a license to do a demonstration," he said. He called Texas authorities' contention that permitting the demonstration would have enabled illegal activity "absolute nonsense."

In a letter yesterday to Mr. Livingston responding to the department's decision to cancel the demonstration, Mr. Melamed contended that it was legal under sections 2.803 and 2.807 of the FCC's rules. He also asked the Texas agency to reconsider its decision.

"Unfortunately the amount of effort over the past few days made by your department to try to cancel this legal event is only heightened by the lack of effort to try to get the CTIA and its representative cellular providers to stop selling cell phone service in prisons. This is the main issue," the letter continued. "The one good thing is that you are going to bring the attention of the public to how ridiculous the whole issue really is. Cell phones in prisons should be stopped."

CellAntenna, which says it sells its equipment to state and local law enforcement agencies in other countries, plans to demonstrate its equipment on Jan. 8 at the District of Columbia's jail, according to Mr. Melamed, who said he hopes a number of members of Congress show up. A demonstration in Arkansas would probably be next after the D.C. one, he said, adding that the company has also discussed conducting demonstrations with correctional officials from Tennessee, Kentucky, New Jersey, and North Carolina.

The decision by Texas prison authorities also drew criticism from state House Corrections Committee Chairman Jerry Madden (R.), who had invited CellAntenna to demonstrate its equipment.

"It is unfortunate that the Texas Department of Criminal Justice has backed out on a demonstration they agreed to over three weeks ago. I am committed to working with other lawmakers and stakeholders to change a federal law outdated by technology, for the sake of public safety," the lawmaker said today. "The purpose of the demonstration was not to blatantly violate federal law but to test the technology and get the nation's attention to urge Congress to make cell phone frequency-jamming, under strict regulations within our correctional facilities, legal."

FCC spokesman Robert Kenny told TRDaily today that his agency did not discourage Texas officials from allowing the demonstration. "We encourage Texas state officials to move forward with their plans to do the test," he said. "We recognize that there are some issues that public safety faces on a daily basis regarding these issues, and, as we said, we're willing to work with them." However, he reiterated that congressional action was likely necessary.

Joe Farren, assistant vice president-public affairs for CTIA, said the group's president and CEO, Steve Largent, did not contact Texas Gov. Rick Perry (R.) to try to get him to cancel the demonstration. Mr. Largent unsuccessfully called South Carolina Gov. Mark Sanford (R.) before the Nov. 21 test in that state. In a letter last Thursday to Rep. Madden, Mr. Largent declined to attend the test but said the group is working with the staff of U.S. Sens. Kay Bailey Hutchison (R., Texas) and John Cornyn (R., Texas) "to identify solutions that provide for an effective deterrent, but ensure the reliability of all wireless communications - both commercial and public safety communications in bands adjacent to commercial radio spectrum (CMRS) frequencies."

In early December, the South Carolina Department of Corrections asked the FCC to modify its rules to allow state and local law enforcement authorities, including those working in jails and prisons, to jam mobile phones to protect public safety. The department also petitioned the agency to, in the interim, allow it to conduct a pilot program of mobile phone jamming technology in its prisons. It also said it would work with the state's congressional delegation to change the law. - Paul Kirby, paul.kirby@wolterskluwer.com

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