



Federal Communications Commission
Washington, D.C. 20554

February 18, 2009

Mr. Devon Brown
Director
District of Columbia Department of Corrections
1923 Vermont Ave., N.W.
Washington, D.C. 20001

DA 09-354

Dear Mr. Brown:

The Commission has received your letter, dated February 2, 2009, requesting authorization for the District of Columbia Department of Corrections (DCDOC) to host a demonstration of jamming equipment designed to block wireless telephone calls by prisoners.¹ For the reasons set forth below, we must deny the request.

The DCDOC letter states that the brief demonstration will take place on February 20, 2009 at the D.C. Jail.² The DCDOC letter indicates that “the demonstration will entail directional jamming that will not affect authorized wireless communications transmitted outside the established test area of the D.C. Jail.”³ In further support of the request, DCDOC explains that “wireless telephones present a serious threat to public safety and the security of correctional environments.”

We are cognizant of the substantial threat to public safety posed by the use of contraband mobile phones by inmates in prisons and other correctional facilities. We also note that members of Congress have expressed an interest in modifying the Communications Act to authorize the Commission to consider petitions for waiver to permit the installation of devices “for the sole purpose of preventing, jamming, or interfering with wireless communications within the geographic boundaries of a specified prison, penitentiary, or correctional facility.”⁴ However, based on the information provided in the DCDOC letter and consistent with past Commission staff interpretations, we find that the proposed jamming would violate both the Communications Act of 1934, as amended, (“Communications Act”) as well as the Commission’s rules. Specifically, Section 333 of the Communications Act prohibits willful or malicious interference with “any radio communications of any station licensed or authorized by or under the Act or operated by the United States Government.”⁵ In addition, Section 302 of the Communications Act, and Section 2.803(a) of the Commission’s rules prohibit the manufacture, importation,

¹ Letter from Devon Brown, Director, District of Columbia Department of Corrections, to Michael Copps, Acting Chairman, Federal Communications Commission at 1 (February 2, 2009) (“DCDOC Letter”).

² *Id.*

³ *Id.*

⁴ Safe Prisons Communications Act, S. 251, 111th Cong. § 2(b)(1)(a) (2009); *see also*, Safe Prisons Communications Act, H.R. 560, 111th Cong. § 2(b)(1)(a) (2009).

⁵ 47 U.S.C. § 333.

marketing, sale or operation of devices deliberately designed to jam or disrupt wireless communications.⁶

As noted above, our denial of the request is consistent with past actions by the Commission's Wireless Telecommunications Bureau; Office of Engineering and Technology; and Enforcement Bureau addressing the permissibility of the sale or use of cell phone jamming equipment. For example, on June 25, 2005, these Bureaus jointly released a Public Notice to make clear that the sale or use of transmitters designed to prevent, jam or interfere with cell phone communications was unlawful as a violation of both the Communications Act and our rules.⁷ In 1999, the Office of Engineering and Technology and the Compliance and Information Bureau issued a similar Public Notice stating that: "[t]here are no provisions in the FCC's rules that permit the operation of any device intended to interfere with cellular communications."⁸ Further, the Enforcement Bureau recently issued a citation to a company for marketing jamming equipment and stated that "there is no ... exemption allowing the marketing or sale of unauthorized radio frequency devices to state and local law enforcement agencies."⁹ Because we find the proposed jamming at the D.C. Jail would be inconsistent with both the Communications Act and the Commission's rules, we deny your request.¹⁰

For the foregoing reasons, the DCDOC request is denied. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

Sincerely,

James D. Schlichting
Acting Chief
Wireless Telecommunications Bureau

⁶ See 47 U.S.C. § 302a(b); 47 C.F.R. §2.803(a).

⁷ See Sale or Use of Transmitters Designed to Prevent, Jam or Interfere with Cell Phone Communications is Prohibited in the United States, *Public Notice*, 20 FCC Rcd 11134 (EB, OET, WTB 2005). We note that on January 2, 2009, the Wireless Telecommunications Bureau issued a grant of Special Temporary Authority to DCDOC to test jamming equipment that did not fully consider all relevant legal issues discussed herein and therefore has no precedential value. See Letter dated January 2, 2009 from Joel D. Taubenblatt, Deputy Chief, Wireless Telecommunications Bureau, to Mr. Devon Brown, Director, District of Columbia Department of Corrections, DA 09-3.

⁸ See Office of Engineering and Technology and Compliance and Information Bureau Warn Against the Manufacture, Importation, Marketing or Operation of Transmitters Designed to Prevent or Otherwise Interfere with Cellular Radio Communications, *Public Notice*, 15 FCC Rcd 6997 (OET, CIB 1999).

⁹ See Letter dated May 27, 2008 from Kathryn Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Monty Henry, DPL Surveillance Equipment, File No. EB-08-SE-203, DA 08-1202 at 3.

¹⁰ Aside from the legal grounds described above requiring denial of the request, we note that the DCDOC letter does not include the technical information that must be submitted with an STA request. See 47 C.F.R. § 1.931. For example, the letter does not include the frequency band(s) on which the proposed jamming would take place; the power levels to be used; or the antenna location, gain, or orientation.