

Fighting Back Against Contraband Cell Phones: A Corrections Dilemma in an Ever Changing Technology Driven Society

Jacqueline Rhoden-Trader, PhD

Assistant Professor of Criminology

Department of Criminal Justice and Applied Social and Political Sciences
Coppin State University
Baltimore, USA

Tiffany Brunson, MS

Criminal Justice Graduate
Coppin State University
Baltimore, USA

Abstract

The phenomena of cell phone as contraband is relatively new and ever changing in the correctional environment and is introduced into prisons at alarming rates which challenges correctional administrators and lawmakers to find effective methods to significantly reduce their influx in prison. Because contraband cell phones provide inmates with the ability to communicate among one another and coordinate criminal activities inside and outside prison, they are a growing threat to public safety. This paper aims to illuminate the issue of contraband cell phones, pertinent cases, and possible solutions to thwart the phenomena. Managed-access or jamming systems have been identified as viable solutions, however, their costs, constitutional threats and creativity of inmates coupled with an ever evolving technological milieu makes elimination of contraband cell-phones daunting for the criminal justice system.

Keywords: Contraband cell phone, managed access system, inmate call capture, jamming

1. Introduction

In July 2007, Carl Lackl was murdered outside his Rosedale, Maryland home leaving his family and friends to mourn. Lackl was days away from giving testimony in court in reference to eye witnessing the murder of Larry Haynes by Patrick Byers. The motive for Lackl's murder was witness intimidation. At the time of Lackl's murder, Byers was a detainee housed in the Division of Pretrial Detention and Services located in Baltimore, Maryland and used a contraband cell phone to orchestrate Lackl's murder. Byers paid Blood gang members \$2,300 for Lackl's murder (Jiang, 2009). Of that, \$100 was paid to Jonathan Cornish, gunman in the Lackl's murder case as a result of Byers acquisition of a second cell phone while in jail. The prosecutor says Byers used a cell phone to call another witness in the trial against him, the same one Lackl would have testified in, and that witness changed his story (Bubala, 2009).

2. Statement of the Problem

The phenomena of cell phones as contraband are new and ever changing for the correctional environment and are introduced into prisons at alarming rates which challenges correctional administrators and lawmakers to find effective methods to reduce their presence. Because contraband cell phones provide inmates with the ability to communicate amongst one another and coordinate criminal activities inside and outside prison, they are a growing threat to the security of correctional facilities, staff, and inmates and their presence places fear in the public that one would expect to be removed when a person is confined.

Through the use of cell phones, inmates intimidate witnesses, order murders, traffic narcotics, extort, plan escapes, and orchestrate gang activity yielding significant negative impacts on social control functions of the criminal justice system and community relations. For example, in Maryland, there was a 70 percent increase of cell phone seizures in 2007 (DeMetrick, 2009) which totaled 1000 cell phones.

In California, prison officials reported that they collected over 2,800 cell phones in 2008, double the amount found the previous year (Maynard, 2009). And in South Carolina, inmates have used cell phones to coordinate escapes, smuggle contraband, and commit credit card fraud for thousands of dollars (Maynard, 2009).

The phenomenon of contraband cell phones in prisons have placed a strain on social control because this problem is new to criminal justice practitioners and finding a solution to this growing problem is a challenge. The challenges to find solutions have allowed inmates to continue operating their criminal enterprise as they still have access to the outside world and the possibility of the emergence of a new contraband in the correctional environment. Furthermore, deterrents to the inmates and correctional staff are minimal. Harm to correctional personnel is also at issue as evidenced in the 2010 shooting of a South Carolina corrections officer in charge of keeping contraband out of the prison where he worked (Graczyk, 2013).

Contraband cell phones are a public administration issue for the correctional system. At the federal level, “The Government Accountability Office reported that in 2011, a federal inmate was found running an identity-theft ring from prison using a contraband cell phone” (Jackson, 2013). Correctional institutions are not able to account for all contraband cell phones within their prisons. The absence of this data does not permit sound administrative decisions in accurately analyzing the prison’s security risks. Unaccounted contraband cell phones create an unsafe prison environment for inmates, staff, and the public. Inmatecreativity in devising methods to continue the infiltration of contraband cell phones into prisons is a public order threat.

2.1.How

Cell phones are smuggled into prisons by the thousands, often by bribed correctional officers, visitors, and contractors (Bishop, 2009) while some are hidden in food shipments, concealed in body cavities, and tossed over prison walls. Correctional officials, politicians, and the public are challenging the government to enact laws and use technology to combat contraband cell phones.

Corrections are unable stop the proliferation of cellphones into their prisons because they have become a hot commodity and smuggling and concealment methods are ever changing. Contraband cell phones and cell phone accessories, such as SIM cards and chargers, have been discovered in every security level of prisons and other correctional institutions. Due to their size and ease of disguising, cell phones have become a sought after item for inmates. In many prisons, cell phones have become as valuable as drugs. In a 2008 sting operation in Texas, an undercover officer was offered \$200 by a prisoner for a cell phone and only \$50 for heroin (McNichol, 2009). Then California officials said inmates paid between \$100 and \$400 to obtain a smuggled cell phone (McNichol, 2009). Inmates also rent out the same phone dozens of times to fellow inmates. Today, a cell phone can yield upwards of \$1000 dollars depending on the criminal enterprise it supports. (New, 2013).

Inmates conceal the cells phones inside Bible bindings, shoe heels, peanut butter jars, and toilet pipes (Beiser, 2009) as well as in juice cans and even in an inmate’s body cavity (New, 2013). They also hide the cell phones in fans, light fixtures, books, mattresses, the walls of their cells, sinks, or shelving units (Shaw, 2009). In December of 2010, “Charles Manson, the infamous criminal ringleader who ordered others to murder on his behalf, was caught...with a cell phone he kept under his bed at California’s Corcoran State Prison (Katims, 2011). One extreme method inmates use to conceal a cell phone is in a body cavity. In a search of a Texas death-row inmate, Hank Skinner, two SIM cards were discovered in a bible (Hylton, 2008). Skinner denied having a phone, but an X-ray revealed one hidden in his rectum. John Moriarty, the inspector general for the Texas Department of Criminal Justice, has an x-ray showing a handset and charger lodged up what he refers to as an inmate’s “keister” (Beiser, 2009).

2.1.Who

The most common method in which phones are introduced to prisons and given to inmates is by corrupt corrections officers and other prison staff, but visitors, civilian accomplices, and correctional staff also contributes to the proliferation. Because correctional officers and staff are lightly searched, they are able to smuggle contraband cell phones into prisons and can earn several thousands of dollars for violating procedures. One California officer told investigators he made more than \$100,000 in a single year selling phones (Beiser, 2009).

Another key player in contraband cell phone smuggling is visitors. Visitors conceal cell phones in their shoes, personal items, or hand them to correctional officers.

David R. Shaw (2009), State of California Inspector General, purports inmates' friends and family members have developed a variety of methods to smuggle cell phones into prisons. One method is by intercepting quarterly packages from state approved vendors, stuffing them with cell phones, resealing the box, and forwarding it to the inmate. These phones are concealed inside DVD players, televisions, radios, typewriters, books, toilet paper, cereal products, and other items. Contractors conceal the phones in over-sized rolling lunch bags, briefcases, file boxes, and backpacks. Civilian accomplices, staff, and former inmates drop off contraband, including cell phones, outside the secured perimeter of the prison for later pick up by minimum security inmates. These inmates have access outside the secured perimeter when performing landscape, maintenance, and other related duties.

2.3. Why

Two possible correlates to the proliferation of smuggled cell phones in prisons may be correctional staff being overworked and underpaid. In these hard economic times, correctional officers and staff have compromised their morals and values to make ends meet. According to the Bureau of Labor Statistics Occupational Handbook 2010-2011 (United States, 2010), median annual earnings of correctional officers and jailers were \$38,380 in May 2008. The middle 50 percent earned between \$29,660 and \$51,000. The lowest 10 percent earned less than \$25,300, and the highest 10 percent earned more than \$64,110. Median annual earnings in the public sector were \$50,830, in the Federal Government, \$38, 850, in State government, and \$37,510 in local government. In the facilities support services industry, where the relatively small number of officers employed by privately operated prisons is classified, median annual earnings were \$28,790. According to the Federal Bureau of Prisons, the average salary for Federal correctional officers was \$53,459 per year in March 2009. Federal salaries were slightly higher in areas where prevailing local pay levels were higher. As such, corrupt and greedy correctional staff are easily bribed to smuggle cell phones into correctional facilities.

3. Pertinent Cases

A clear example of the threats to the criminal justice system is the case of Texas state senator John Whitmire. Texas death-row inmate, Richard Tabler, allegedly used a smuggled cell phone to make threatening calls to the Senator, chairman of a key criminal jurisprudence committee (Hylton, 2008). According to Whitmire, "He started threatening me and my family to have us killed...Well that gets my attention." (New, 2013) The calls were among 2,800 made in just one month from cell phones used by Tabler and nine of his fellow death-row inmates. Similarly, inmates used cell phones to plan their escape from a southern California prison. The escaping inmates used a cell phone to arrange to be picked up off prison grounds (Shaw, 2009). They also received a text message from a few inmates inside the prison advising them that correctional officers were conducting an emergency count because of their escape. Another pertinent case was that of The Raza Unida Prison gang. The gang used smuggled cell phones to traffic drugs, organize home invasions and put hits out on witnesses." (New, 2013) In addition, an inmate David Puckett used a cellphone to plan his escape.

A notable case revealed in 2013 was that of Maryland's Department of Public Safety and Correctional Services. Maryland Governor Martin O'Malley says, "These are pretty deadly instruments for gangs to use to intimidate witnesses on the outside, to order hits on rival gangs." (Johnson, 2014). His words stemmed from a prison scandal in which the workings of the Black Guerilla Family, a prison gang also known as BGF and emerged in 2008, garnered federal attention. The gang's momentum grew as a result of the 'proliferation of cellphones inside of prisons.' It collected dues, along with a tax on drugs and other contraband that was smuggled into the jail, all of which was overseen by a "Minister of Finance" (Ibid).

4. Policy Issues, Recommendations and Solutions

A recommendation to stop correctional officers from taking bribes is to have the Department of Corrections offer education stipends to further their education and knowledge of corrections as well as criminalizing smuggling cell phones. In addition, the use of cell phone jamming, and enforcing stricter administrative sanctions through legislative sanctions are expected to prove successful in addressing this growing threat. However, legislating contraband cell phones may be a daunting effort on the state level as many challenges of its constitutionality have been presented. Although Congress unanimously passed S. 1749 prohibiting the possession or use of cell phones and similar wireless devices by Federal prisoners in August 2010, it has yet to pass a bill to allow state and local prisons to use jamming technology and the state deficits are causing budgetary constraints for prisons to use alternative technology and approaches to combat this threat. Until legislation can be approved, research suggests stricter administration sanctions for employees smuggling cell phones into prisons.

The sanctions could be penalty fines, termination without pension, and jail time. Enforcing stricter sanctions on correctional employees is an effective deterrent with promising results in decreasing the number of cell phones in prisons.

Since the emergence of cell phone usage in prisons, introducing and possessing a cell phone was not a crime but a rule violation. Inmates found in violation received a disciplinary report, were confined to a cell for no more than 60 days and attend a disciplinary hearing that could result in reduction of good behavior credits (OPPAGA, 2008). Many states, including Florida, Nevada, New Jersey, and Texas, have passed legislation making the possession of a cell phone within a prison a felony (Maynard, 2009) or enhanced their technology. State correctional officials believe criminalization would be a deterrent to inmates and correctional staff. Inmates, visitors, contractors, and correctional staff caught with a contraband cell phone are not currently prosecuted and possessing a cell phone is not a crime but a rule violation. Consequently, inmates' visitors and outside accomplices face minimal ramifications such as being barred from the prison (Shaw, 2009). The reduction of good behavior credits and other administrative sanctions are the only potential consequences inmates could face when found in possession of a cell phone (Shaw, 2009). The ramifications faced by correctional staff and contractors found providing cell phones to inmates are administrative sanctions that range in severity up to termination of employment (Shaw, 2009).

4.1 Technology Solutions

Several efforts are underway to thwart the proliferation of contraband cell phone usage in prisons and include enhancing security measures/techniques and cell phone jamming which research suggests can be successful.

"In Maryland, the Department of Public Safety and Correctional Services (MDPSCS) has made a \$1.1 million investment in security and enhanced technology, including 24 new body orifice security scanners and what the department claims is the nation's first dog training program for cell phone detection. Within the last year, the department has seen a 32 percent drop in cell phones confiscated, which according to the department, can be attributed to tighter searches and seize efforts." (Katims, 2011)

Cell phone jamming is the best method to combat cell phones infiltrating prisons. There are many arguments about whether cell phone jamming is an effective tool or a public safety issue. Critics of cell phone jamming believe it is a public safety issue and could interfere with legitimate service and 911 calls (DeMetrick, 2009). "Jamming is a blunt instrument," said Joe Farren, vice president of government affairs for the Cellular Telecommunications Industry Association (Hsu, 2009). Farren warns of another problem with jamming devices which is "friendly fire" (Hsu, 2009). Friendly fire is when one agency inadvertently jams another's access to the airwaves, posing a safety hazard in an emergency.

Jon Ozmint, director of South Carolina's department of Corrections, demonstrated jamming technology to reporters at a prison by shutting down cell phones in an auditorium- but not the rooms around it (Ozmint, 2009). Ozmint states cell phone jamming technology is 80 percent cheaper and 100 percent effective (Ozmint, 2009). Improved technology such as, surgical jamming, can be aimed and can only block certain signals within a set radius (Ozmint, 2009). Surgical jamming does not interfere with law enforcement radios or block E-911 calls (Ozmint, 2009). In fact, it will not block any call or frequency outside of the prison perimeter.

Bryan and Scism (2009) recommend cell phone exclusion zones could be set up inside prisons if legislation or a rule change permits limited jamming. The technology is available to create exclusion zones and can be structured to ensure the jamming does not affect secure areas however; jamming is only being utilized at the federal level. Maynard (2009) said it best, "We have to fight technology with technology." Inmates are becoming craftier and more creative in finding ways to operate their criminal enterprises. Even though the Federal Communications Commission has not granted local and state agencies the right to jam cell phone signals, other technology such as cell detection, body scanners, and canine units have proven to be effective.

Likewise, social control can be restored by implementing new policies such as airport style screening before entering prisons, congressional approval of funds for advanced technology to be used in prisons with high rates of contraband cell phones, or denying the visitation rights of the inmate caught with the contraband cell phone. The restoration of social control in the criminal justice system is critical because crime will continue to increase if not. Inmates continue these deviant acts because of the lack of direct control present in the criminal justice system. Direct control agents could be wardens, correctional officers, police officers, guards, and law makers.

The influence of these direct control agents can reduce the number of cell phones until legislative approval of funding for technology and criminalization of contraband cell phones ensues.

4.2. System Solutions

4.2.1. Police

Police departments have been impacted by contraband cell phones. Contraband cell phones are the new black market item and the police are challenged to find the suppliers. Police departments can use GIS driven COMPSTAT data to locate suppliers of contraband cell phones to prisons and identify accomplices. The police department could collaborate with the prison and use their intelligence data to identify the perpetrators. Such intelligence data can identify and apprehend associates of inmates supplying the contraband cell phones, reduce the number of contraband cell phones in prisons, and stop their criminal enterprise. Once the perpetrators are identified, police departments and prisons can create a database of suppliers. This database can be used to deny access of the perpetrators into prisons and charging documents can be filed against them.

Furthermore, departments can also use community policing efforts to reduce contraband cell phones. The police departments could set up tip hotlines and use citizens to collect information on people smuggling cell phones into prisons. The representative would collect information on the person's name supplying the cell phones, how long the person has supplied the cell phones to prisons, to which prison(s) did the person supply the cell phones, how much did it cost, and what crimes were committed with the cell phone. This data will allow police departments to dispatch more police officers in the areas where the most calls were received. Deploying more police to these areas can help reduce the number of cell phones in prisons.

4.2.2. Courts

The courts have been impacted by contraband cell phones because law makers are desperately creating laws to criminalize contraband cell phones in prisons. The current laws governing contraband cell phones are not a deterrent. The courts should allow police departments and correctional systems to create interim policies that sanction contraband cell phones until Congress has passed laws making introducing and using contraband cell phones in prisons a felony offense. Many states are implementing legislation that criminalizes the introduction and possession of cell phones. State and correctional officials believe prosecuting inmates, visitors, and correctional personnel would be a deterrent and help reduce the number of cell phones entering prisons. A successful judiciary action is evidenced in California. "In Fall, 2011, Governor Edmund G. Brown Jr. signed Senate Bill 26 which makes it a misdemeanor to own an unauthorized cell phone in prison or to try to take one into a prison (California Department of Corrections and Rehabilitation, 2013)

Based on research, technology and legislation are the best solutions to reducing contraband cell phones. Contraband cell phones can be prevented from infiltrating prisons by a collaborative effort between correctional systems and the judicial body. Enforcing stricter sanctions should be an effective deterrent and will strengthen prison infrastructures. Legislation will also enable prisons to use effective technology and provide funding for resources to combat contraband cell phones.

Research recommends enacting new laws to criminalize the introduction and possession of contraband cell phones into federal and state prisons. Enforcing stricter sanctions on inmates, correctional employees, and visitors is an effective deterrent with promising results in the reduction of cell phones. Sanctions for inmates can include adding a new sentence to their existing one. This sanction is effective on inmates who have less than two years to serve. Sanctions for inmates serving life sentences can be reduction in recreation time and extended time in solitary confinement. Correctional employees can be sanctioned to penalty fines, termination without pension, and serve more than a year in prison. Visitors and outside accomplices can serve a year or more in prison and have their visitation privileges revoked indefinitely for any prison, federal or state.

4.2.3. Corrections

Currently in state prisons, introducing and possessing a cell phone is not a crime, but a rule violation. Inmates found in violation receive a disciplinary report, confined to a cell for no more than 60 days, and must attend a disciplinary hearing that can result in reduction of good behavior credits (OPPAGA, 2008). The ramifications faced by correctional staff, including officers and contractors found providing cell phones to inmates are administrative sanctions that range in severity up to termination of employment (Shaw, 2009). Visitors and outside accomplices are denied visitation privileges into the prison.

The correctional facility could enforce a mandatory policy where employees and inmates can anonymously report people that have cell phones or that smuggle cell phones into prisons. This anonymous reporting system can assist correctional administrators to pinpoint the source and make the necessary provisions to stop the flow of contraband cell into prisons. Correctional facilities can offer detection training for officers to assist them on how to identify and locate contraband cell phones.

Another possible solution is the formation of a prison task force to investigate how cell phones infiltrate the prison based on intelligence and tips. The team would also consist of an analytical team to collect data and calculate the number of possible cell phones. Wjz.com (2009) reports prison officials were able to confiscate 26 cell phones, 26 phone chargers, and two SIMS cards, 15 bags of tobacco, 12 bottles of alcohol, and two bags of marijuana from entering the Metropolitan Transition Center in Baltimore. Correctional officers were tipped off by a food worker and the Division of Corrections Intelligence staff was able to prevent the contraband from entering the prison.

4.2.4. Community Impact

Contraband cell phones have an impact on community relations because citizens are being harassed by inmates and witnesses are being intimidated. The fear of inmates having that much power while incarcerated has caused citizens to panic. The criminal justice system can provide extra surveillance to citizens enlisted in witness intimidation programs and provide a 24 hour number to report any harassment received from inmates. The criminal justice system can use business partnerships with companies like Verizon and Sprint to provide secured phones lines to customers being harassed by inmates.

4.3. Primary Solutions

In addition to new legislation, technology is another effective method to reduce contraband cell phones. Technology is ever changing and inmates are becoming more creative in finding ways to operate their criminal enterprises. Smartphones equip inmates with internet capabilities granting access to phone directories, maps and photographs for criminal intent, and conduct gang violence and drug trafficking online (Brown and Severson, 2011). Current technology used by prisons such as cell detection, body scanners, and canine units have proven effective. The most recent technological advancement to help combat contraband cell phones is managed access. Managed access establishes a network around a prison that detects every call and text (Brown and Severson, 2011). The managed access system establishes a list of approved cell phones and calls made from illegal cell phones will register as not approved and will terminate the operation of the cell phone.

In addressing the potential constitutional violation of the Communications Act which prohibits non-Federal entities from jamming communications frequencies, managed access systems are being installed in prisons across the country as a viable solution. States such as Maryland, Mississippi, Texas and California have implemented such usage. Managed access technology ‘allows and passes through all 911 authorized calls and rejects unauthorized calls including those placed by or made to inmates.’ (U.S. Federal Communications Commissions, n.d.). In 2010, Mississippi became the first state to implement a managed cellular access system. At its first trial in the correctional facility in Parchman, Mississippi, this technology stopped 216,000 illegal calls made by and to inmates from ever reaching their destination in just one month” (Ibid).

In 2013, Texas, the nation’s largest state prison system installed cell-phone blocking equipment that diverts calls, texts, emails, and internet log-in attempts from contraband phones (Graczyk, 2013). California, ‘where nearly 120,000 inmates make it the second-largest state prison population behind Texas, a managed access system went into use in November 2013 at the Avenal State Prison. Nearly 4,800 unique devices and 1.13 million communication attempts were detected in the first month’ (Ibid). Managed access systems also track the number of attempted calls from various locations, giving wardens information on where to target searches.

With an investigation that reached the federal level after years of turmoil in its correctional facilities, Maryland Department of Public Safety and Correctional Services found itself in need of an immediate solution to the proliferation of contraband cell phones. In January 2014, after a six-month pilot program, Gov. Martin O’Malley unveiled his new \$5.4 million managed access system created by Tecor Networks, a Maryland company, and installed in two detention centers. Maryland’s response was critical to ensuring the safety of officers and staff as well as criminal justice personnel and average citizens. According to O’Malley, “For the last seven years, our administration has worked to put Maryland in the front lines of the national fight against contraband cell phones.” (Maryland Department of Public Safety and Correctional Services, 2014).

His sentiments on the value-added of the ‘managed access’ system was, “This technology arms our dedicated correctional staff with additional tools they need to crack down on cell phones in our facilities, protect integrity and ensure the safety and security of our correctional system” (*Ibid*).

This new technology came online due to the 2013 corrections scandal in which 44 inmates and correctional staffers at the Baltimore City Detention Center (BCDC) were indicted after an investigation uncovered they had conspired to operate the Black Guerilla Family (BGF) gang from inside the prison. BGF leader Tavon White used the contraband cell phones to “monitor outside gang activities, alert fellow members to searches and even transfer payments from within prison walls” (*Correctional News*, 2014). Those complicit in the scandal pled guilty to a myriad of crimes including extortion, possession with intent to distribute drugs, money laundering and criminal forfeiture (*Ibid*). Such charges are not specific to contraband cellphones, but were made applicable based on the usage of the contraband.

A preliminary investigation reveals the system which was unveiled with much fanfare and high expectations, has been disabled due to its complexities including the anticipated negative consequence of jamming. One can surmise the proliferation of contraband cell phones in prisons, at least in Maryland, continues to be a corrections and most assuredly criminal justice system threat to the integrity of the system and safety of all.

5. Conclusion

Criminalizing smuggled cell phones, the use of technology, and enforcing stricter administrative sanctions have proven successful in addressing this growing threat, but other alternatives can and must be explored. Cooperation from all components in the criminal justice system can make combating contraband cell phones a success. New legislation, enhanced security measures, and alternate technology are critical. Correctional and state officials as well as the public need to challenge Congress by requesting appropriate funding and resources to address this escalating issue.

Fox (2006) recommends citizens and prison officials lobby for congressional support by way of securing grant funding to influence and stimulate the development and procurement of specific technologies that can be used under the current law. Ideally legislation, a paradigm shift within corrections as well as throughout the entire criminal justice system are what’s necessary, however, such efforts require long term commitments, financial resources and personnel willingness to change purview. Until such resources can be garnered, the old fashioned cell searches, intelligence gathering, and solid correctional practices along with internal analysis and modifications of the correctional culture can reduce the amount of contraband entering prisons.

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