

Issues with Mobile Phones in Australian Correctional Centres

Mobile phone technology presents a serious threat to the security and good order of Australian correctional centres. Correctional service providers in Australia are significantly challenged in the prevention and management of illicit use of mobile telephones within correctional facilities.

Mobile phones (especially those with sophisticated features) in correctional centres can:

- Assist inmates in arranging and executing criminal enterprises;
- Allow inmates to communicate with each other and thereby plan escapes, acts of violence and other types of subversive behaviour;
- Allow inmates to photograph staff and physical premises and potentially misuse this information;
- Give inmates the ability to communicate with, and intimidate, prosecution witnesses;
- Allow inmates relatively unconstrained communication with family, friends and associates, a privilege that is not part of the ethos of incarceration; and
- Provide inmates with access to the internet, games, pornographic images and reading material, which is either regulated or prohibited under prison regulations.

When considering the demand and supply of mobile phones within correctional centres, the following factors need to be taken into account:

- New technology means that mobile phones can perform an increasingly sophisticated range of functions including: voice communication; sending and receiving photographs and graphics; text messaging; access to the internet; conducting financial transactions and banking; and interoperability with other electronic devices.
- Mobile phones are becoming smaller and therefore easier to secrete (in clothing, body cavities or inside other objects). In addition phones can be broken down into smaller components, which are even easier to conceal (for example, SIM cards are very small and easily hidden). Mobile phones have also been manufactured to look like wristwatches which are easy to disguise.
- Mobile phones are being manufactured to contain smaller amounts of metal, which may render them unresponsive to conventional metal detection devices.

Mobile phone technology has been used by correctional centre inmates in custody in Australia to harass or threaten victims of crime and other individuals, including witnesses. Mobile phone technology has been used to organise criminal activities such as the harm of another person, access to drugs, and the escape from custody. Moreover, it is conceivable that in

today's climate of concern regarding national security, mobile phone technology may also be used to organise terrorist-related activities.

International examples of escapes facilitated by mobile phones highlight the need to find a practical and appropriate solution to prevent the illicit use of mobile phones by prisoners (whether they be linked to organised crime or terrorist organisations or not).

In April 2003 there was a successful breakout from Fresnes prison (the largest prison in France) by the Italian crime boss Antonio Ferrera in a commando style assault on the prison. Ferrera had been detained in Division two, the maximum-security wing, of Fresnes prison. As a result of a breach of prison discipline he was moved to the prison's isolation wing to serve a period of confinement. The isolation wing is at the rear of the prison and adjacent to the perimeter wall and service gates. In a commando style assault in the early hours of the morning, cars were exploded and set alight on the main roads adjacent to the prison to create a diversion and the watchtowers were fired upon with machine gun fire and threatened with rocket launchers if they did not cease the return fire. The service gates were then blown away with explosives and the window of Ferrera's cell blown out. Ferrera commanded the operation from inside his isolation cell using a mobile phone.

It was following this escape that the French prison system installed telephone intervention and detection systems into maximum security sections of their prisons in order to prevent prisoners using mobile phones to communicate with their associates on the outside, command assaults on the prison, or engage in criminal activity from their cells.

On 22 March 2005, in Auckland, New Zealand, a prisoner on remand for firearms and drugs offences, escaped after accomplices armed with a firearm confronted the officers who were escorting him. The prisoner used a mobile phone to communicate with a journalist prior to his escape, and correctional authorities believe he may have also planned the escape using a mobile phone

In Brazil in 2002, inmates communicating on mobile phones arranged for 29 prisons across Sao Paulo to riot simultaneously – 15 people were allegedly killed and thousands were held hostage.

Security protocols dedicated to the identification of contraband entering Australian prisons are essential to the prevention of mobile telephones being used in prisons.

However, as mobile phones become smaller, contain less metal and are easier to conceal, the trafficking of mobile phones into prisons has become more prevalent. Technologies continue to move ahead without consideration to the impact such advances may have upon corrections in Australia. It therefore appears timely that the issues concerning mobile telephone technology faced by correctional services in Australia are properly addressed.

The use of detection technologies alone is considered by corrective service providers to be insufficient to satisfactorily mitigate the effects of the increasing efficiency and capacity of technology.

A mobile phone detection system provides opportunities for a “capture some” solution only and the effectiveness of such a solution is further dependent upon certain variables such as the location of detection device/s and resources available for response to detection.

Australian correctional facilities depend upon the availability of a combination of solutions in order to respond to each facility’s unique needs with reference to demographic and geographic characteristics, prison design and proximity to carrier networks and base stations.

Background

In Australia, mobile phone jammers are currently prohibited devices under section 190 of the *Radiocommunications Act 1992*. Section 189 of that Act provides that it is an offence to knowingly operate or supply, or possess for the purpose of operation or supply, such a device.

In 2003, representatives of the Corrective Services Ministers’ Conference (CSMC) resolved to approach the relevant Commonwealth Minister requesting that an amendment be made to the *Radiocommunications Act 1992* to enable the legal jamming of mobile phone signals within correctional centres throughout Australia.

In August 2007, the Australian Communications and Media Authority (ACMA) granted appropriate exemptions to the Australian Federal Police (AFP) which enabled the laboratory testing of a mobile phone jamming device on behalf of Australian corrective services. Following evaluation of the laboratory testing, ACMA advised that the test results were not sufficiently conclusive to allow a clear way forward for any consideration of the deployment of jammers in prison.

In 2004, a CSMC-endorsed study tour was undertaken jointly by NSW and Victoria during which various solutions implemented by overseas jurisdictions were discussed with, and demonstrated to, participants. The findings of this study tour have been valuable to assist in the determination of the best possible solution, or combination of solutions, for Australian correctional centres.

The results of the study tour revealed that detection technology was largely an inadequate measure to prevent illicit mobile phone use in correctional centres and further, that jamming technologies had been successfully implemented in some centres.

In the past, ACMA has expressed concerns regarding the use of jammer technology in Australian correctional centres include: possible interference with licensed radiocommunications; possible disruption of telecommunications; safety of life issues (such as the interference of 000 calls); interference to licensed services and other services in adjacent spectrum bands; the effect upon legitimate users within a certain radius; and possible radiation levels of jamming devices, particularly in confined areas .

Jurisdictional Information

Each Australian jurisdiction has reported instances of the illicit use of mobile phone technology in correctional centres.

Certain jurisdictions further report the inadequacy of current detector technologies available as means with which to effectively manage the problem of mobile telephones entering Australian prisons. It has been noted that the value of detection systems may be increased if supported by advanced International Mobile Equipment Identification (IMEI) reporting.

The following provides a summary of each jurisdiction's experience in the management of mobile phones in correctional centres.

New South Wales

There are 34 correctional centres in NSW. Of these, 12 are located within the Sydney Metropolitan Area and 19 are located in regional or rural areas. A further correctional centre is currently under construction in a rural area.

The NSW Department of Corrective Services operates a number of correctional centres that accommodate inmates of more than one security classification. At present, maximum-security inmates are accommodated at 10 correctional centres, medium-security inmates at 12 correctional centres, and minimum-security inmates at 24 correctional centres. NSW currently accommodates maximum and medium security inmates at 22 correctional centres.

NSW has found in excess of 1,000 mobile phone-related items in its correctional centres since the beginning of 2003. In the first 6 months of 2008, NSW found approximately 100 hundred mobile phone-related items. The items found include handsets, SIM cards, chargers and batteries.

The majority of mobile phone items have been located in inmate accommodation areas. Mobile phone items have been found concealed in various items including pieces of furniture, electrical appliances, and food packaging. Items also have been found concealed in various locations within buildings such as within plumbing, air vents, light fittings, wall cavities and roof spaces.

Examples of the electrical appliances in which mobile phone items have been found include televisions, rice cookers, and sandwich makers. The searching of electrical appliances by correctional staff raises Occupational Health and Safety issues and the issue of compensation to inmates for property damage.

Despite mobile phones being banned in correctional centres, NSW has found mobile phones on visitors, legal practitioners, interpreters, contractors and correctional staff. In particular, contractors pose a unique threat in view of the equipment, material and vehicles that they require to perform their contracted task, which must be allowed into correctional centres.

Legislation

On 26 July 2004, the *Crimes (Administration of Sentences) Act 1999* and the *Summary Offences Act 1988* were amended by the *Crimes (Administration of Sentences) Amendment Act 2004*. The amending Act, among other things, addressed the security threat presented by mobile phones in correctional centres by creating both a correctional centre offence and a criminal offence in relation to an inmate possessing a mobile phone, SIM card, charger or part thereof.

The amending Act provided for any one of a range of penalties to be imposed on an inmate found with a mobile phone or part thereof. The penalties include any of the penalties available to a General Manager of a correctional centre (governor) or Visiting Magistrate for a correctional centre offence; or the deprivation for up to six months of such withdraw able privileges as determined by the General Manager or Visiting Magistrate; or a maximum of two years imprisonment or 50 penalty units (currently \$5,500), or both as imposed by a court.

In 2007, NSW tightened its laws in respect of mobile phones in correctional centres. NSW found that in many instances where a mobile phone was discovered in a correctional centre, the phone was found in a common area of the centre. This meant that any number of inmates may have had access to the phone and may have operated it using their own SIM card. The NSW Department of Corrective Services suspected that mobile phones were being deliberately placed in common areas to make it difficult to prove a charge of possession.

As a result, on 4 July 2007, the *Crimes Legislation Amendment (Mobile Phone in Places of Detention) Act 2007* amended the *Crimes (Administration of Sentences) Act 1999* and *Summary Offences Act 1988*, to provide that an inmate must not, without reasonable excuse (proof of which lies on the inmate), use a mobile phone in a place of detention, as distinct from being in possession of a mobile phone. The change means that it is sufficient to establish that an inmate has used a mobile phone that has been found in a place of detention in order for an offence to be proved

It is important to note that the miscellaneous provisions under the *Summary Offences Act 1988* relating to places of detention also apply to any person found guilty of bringing or attempting to bring a mobile phone or any other contraband into a place of detention.

The *Summary Offences (Places of Detention) Amendment Act 2002*, which commenced on 21 February 2003, amended the *Summary Offences Act 1988* and increased the powers of correctional officers to stop, detain and search people or vehicles that are in the immediate vicinity of a place of detention.

The power to stop, detain and search applies to: all correctional complexes, correctional centres and periodic detention centres; all employees who work within a place of detention; all other persons with lawful authority to visit a place of detention; any person who without lawful authority loiters about or near any place of detention, enters or attempts to enter a place of detention; any person who communicates or attempts to communicate with any inmate.

These powers apply to persons in or in the immediate vicinity of a place of detention providing the correctional officer suspects on reasonable grounds the commission of an offence. If a person is reasonably suspected of trafficking contraband, NSW Police are asked to attend the correctional centre at which time police will make an assessment concerning the need to conduct a strip search.

Policy

The NSW Department of Corrective Services does not permit mobile telephones to be taken into correctional centres.

The NSW Commissioner of Corrective Services is able, however, to grant approval to a limited number of people to take a mobile telephone into a correctional centre in prescribed circumstances.

Detection equipment

To assist with its general detection activities, the NSW Department of Corrective Services has various types of equipment in use at correctional centres. NSW has been using hand held mobile phone detectors since early 2001. NSW has installed X-ray machines at the 10 correctional centres that accommodate maximum-security inmates. NSW also has installed metal detector machines at the 22 correctional centres that accommodate maximum or medium security inmates. The latest generation metal detectors have been installed at both Goulburn Correctional Centre and Lithgow Correctional Centre as these two centres accommodate the largest proportion of the more serious sentenced offenders in the Department's custody.

Detection

NSW has a multi-strand strategy to detect mobile phones and other contraband in correctional centres. NSW has policies in respect of the searching of inmates, employees, and visitors to correctional centres. NSW requires all employees and visitors to convey their possessions into a correctional centre by way of clear plastic bags. NSW also is able to conduct drug and alcohol tests on staff. All of these measures are relevant to addressing the mobile phone problem in correctional centres.

The Department: conducts regular searches (both random and targeted) of inmates, including strip searches; conducts frequent and regular searches (both random and targeted) of correctional centre premises. These searches may involve the use of specialist departmental units such as the K9 Unit (a multi-purpose, including drug detector, dog unit) and State Emergency Unit; uses intelligence information (internal and external); monitors both inmate telephone calls, made through the correctional centre based Controlled Telephone System, and inmate mail; and uses mobile phone detection devices.

Establishment of Task Force

In 2004, the NSW Department of Corrective Services established a Taskforce to combat the introduction of contraband such as mobile phones and drugs into correctional centres. The establishment of the Task Force led to joint operations with NSW Police, increased searches by custodial staff and the K9 Unit (a multi purpose, including drug detector, dog unit), and improvements in technology-driven surveillance. The Task Force increased the Department's focus on detecting and removing mobile phones from correctional centres.

In November 2007, the functions of the Task Force were absorbed into the Department's State Emergency Unit (SEU). SEU officers attend correctional centres, court complexes and departmental buildings to search visitors, vehicles and departmental staff. In addition to the routine searches, SEU officers also conduct strategic searches. The SEU's staffing profile includes dog handlers and intelligence analysts. The SEU uses both covert and overt methods of detection including metal detectors and physical search procedures.

General

NSW has reported many instances in which an inmate has used mobile telephone technology to contact people on the outside in the interest of criminal conduct. In one example, efforts were made by an inmate, through the use of a mobile telephone, to arrange the murder of a crown witness directly related to his case. In another instance, an inmate was alleged to have used a mobile telephone in an effort to recruit couriers to bring illicit drugs into Australia. Other examples include inmates placing threatening and harassing telephone calls to victims of crime, witnesses and other individuals. In one instance, a Sydney newspaper featured photographs which were taken

on a mobile telephone of a person in custody inside a correctional facility. The capability of mobile phones to take photographs has obvious security implications.

Victoria

Corrections Victoria operates five maximum security facilities and four medium security facilities, as well as some minimum security facilities and open prisons.

Victoria has taken steps in an effort to eradicate the use of mobile telephones in correctional facilities. Legislation specific to the possession of mobile telephones in facilities has been considered; however, possession of mobile telephones is currently managed through the prison disciplinary process, visitor bans and possible legal action against visitors in relation to trafficking of contraband.

Approval for exemption to carry mobile telephones may be granted to senior staff and staff from external agencies; however, no exemptions are granted in relation to High Security Units and Port Phillip Prison.

Mobile telephone detection equipment is currently used in maximum and medium security facilities in Victoria. The equipment is used to detect metal objects on all staff and visitors passing through a detector booth and some hand held detectors are also used. Corrections Victoria notes that advances in mobile phone technology and the reduction of metal parts in telephones have rendered mobile telephones increasingly difficult to identify using available detector technology. Moreover, the hand held mobile telephone detectors currently in use can detect old technology mobile telephones but cannot detect newer products available.

Victoria reports the discovery of nineteen mobile telephones over the last year.

In Victoria, a maximum security prisoner, charged with murder, has been found with two mobile phones. A medium security prisoner who had been convicted of fraud was also found with mobile telephone technology with which he facilitated internet connection to oversee off-shore business interests and to contact family and friends; this case was referred to the Australian Federal Police.

Queensland

Queensland Corrective Services operates 10 high security centres; 7 low custody centres and 14 work camps (low custody).

In Queensland, mobile telephones are a prohibited item as stipulated by clause 20(r) of the *Corrective Services Regulation 2006* and possession of a mobile telephone can result in a maximum penalty of 2 years imprisonment.

Corrective Services Administrators' Council Emerging Technology Working Group – submission to ACMA relating to Issues with Mobile Phones in Correctional Centres

Exemptions to the possession of mobile phone include: emergency situations when landline connections are lost (two mobile or satellite telephones are stored in appropriate facilities for this purpose); and mobile telephones supplied for escort officers and Duty Managers which are stored in facilities when not in use.

All visitors and staff are subject to scanning and/or general searches which may include the use of electronic metal detection devices used in maximum and medium security facilities.

Between 1 July 2007 and 30 June 2008, there were 84 reported instances of mobile telephone technology being introduced into Queensland correctional facilities, resulting in the discovery of a total of 93 mobile telephones. In 54 of these instances the telephone was detected by a scanning device or other search. No serious breaches of security have been reported as a result of the illicit use or possession of these mobile telephones.

South Australia

South Australian Correctional Services operates 4 medium/maximum security facilities; 3 minimum/medium security facilities; and 1 maximum security facility.

The discovery of an illicit mobile telephone in South Australia is addressed in accordance with clause 9 of the *Correctional Services Regulation 2001* and any mobile telephone entering a facility must be approved by the General Manager.

Metal detectors (walk through and hand held) are used in facilities and since January 2006, 40 mobile telephones have been discovered in South Australian correctional facilities.

South Australia reports that serious breaches of security resulting from mobile phone possession include drug related offences and a planned escape.

Western Australia

The Western Australia Department of Corrective Services operates 13 correctional facilities comprised of: 4 maximum security facilities; 2 medium security facilities; 3 minimum security facilities; and four regional prisons which cater for the classification spectrum.

The proposed *Corrective Services Bill*, yet to be tabled in Western Australia will, if passed, prohibit all wireless communications for prisoners, the possession and use of which is currently charged as possession of an unauthorised article. The possession of mobile by people other than inmates currently takes place on a discretionary basis.

Western Australia reports no recent specific security upgrades regarding mobile telephone detection; however, mobile telephone detectors are used in medium and maximum security facilities. It is reported by Western Australia that the application of this technology is usually prompted by intelligence information and often yields inaccurate results.

Western Australia reports a small number of instances of the discovery of mobile telephones in correctional facilities over the last year. Intelligence suggests that mobile telephone possession in Western Australian facilities has resulted in the harassment of victims, drug delivery, the operation of external crime networks, and to facilitate illicit internet access.

Tasmania

Tasmania Prison Service operates 4 maximum/medium security facilities; and 2 minimum security facilities.

Mobile telephones are generally prohibited in Tasmania's prison facilities; however, the possession of a mobile telephone may be approved by the respective prison manager in exceptional circumstances. Tasmania is not subject to specific legislation in relation to unauthorised mobile telephones in prisons, however, location of such items is classified as an "an un-authorized article" under the *Corrections Act 1997* and managed in accordance with prison protocols.

In 2006 Tasmania commissioned new maximum and medium security prisons for both men and women and these facilities feature current roto-turn metal detectors technology and X-ray technology as part of front of house security. Tasmania also uses hand held detectors and cell intercoms are used to monitor suspected inmates. Intelligence indicates that the main use of mobile telephones in Tasmanian prisons is to arrange for the delivery of drugs.

In the period March 2007 to June 2008, Tasmania detected twenty one mobile telephones, five SIM cards and a number of phone chargers within prison facilities, most of which were located as a result of cell searches.

Serious breaches of security related to mobile telephones include a case in 2005 involving a serving correctional officer. The officer, on his way to work in the Risdon Maximum Security Prison, was intercepted by police and discovered to be in possession of a pistol and ammunition. Subsequent investigation revealed that this officer had also provided mobile telephones to inmates and had planned for certain inmates to escape from custody. The staff member was sentenced to a term of six years imprisonment.

Northern Territory

The Northern Territory Correctional Service operates 2 multi-classification correctional facilities.

Under the Northern Territory's current regime, the possession of a mobile telephone or related equipment is managed through the internal prison misconduct process.

Standard security considerations have assisted in the prevention of mobile telephones entering facilities. Security considerations specific to the trafficking and use of mobile telephones are being addressed with the building of a new correctional facility.

The Northern Territory does not frequently discover mobile phones in prison facilities.

Australian Capital Territory

The Alexander Maconochie Centre, the Australian Capital Territory's (ACT) first prison, was officially opened on 11 September 2008. It caters to all security levels for sentenced prisoners and individuals remanded in custody.

Currently the ACT operates two remand facilities, the Belconnen Remand Centre and the Symonston Temporary Remand Centre. Both of these facilities will be de-commissioned when the Alexander Maconochie Centre is fully operational. ACT Corrective Services also operates a Periodic Detention Centre.

Under section 81 of the *Corrections Management Act 2007* a mobile phone is a prohibited thing in all ACT correctional facilities and the possession of a mobile telephone may result in a maximum penalty of 50 penalty units (\$5000), six months imprisonment or both. This legislation commenced on 18 December 2007

There are no exemptions to the prohibition of mobile phones in correctional facilities in the ACT and all staff and visitors must place their phones in lockers.

The Alexander Maconochie Centre is equipped with x-ray baggage scanners and metal detection devices including hand scanners and an automatic rotating metal detector. ACT Corrective Services uses a detector which securely recognises, signals and records mobile phones.

The discovery of mobile telephones in facilities has not been a significant issue to date in the ACT.

New Zealand's experience with jamming technology

New Zealand has introduced mobile telephone jamming technology in correctional facilities in response to serious breaches of security from the illicit use of mobile telephones in New Zealand prisons.

Prior to the introduction of this technology, New Zealand Corrections faced issues similar to those being experienced in relation to the inadequacy of detector technology and the resulting security problems in correctional facilities. In the lead up to the introduction of jamming technology in prisons, New Zealand was also compelled to address the potential conflict between the interests of telecommunications carriers and their customers and the interests of correctional and community security.

In 2005, the Department of Corrections brokered an agreement with telecommunication carriers resulting in a Memorandum of Understanding (MoU) which stated all parties' co-operation and commitment to explore options to prevent the use of mobile phones inside prisons. A project team involving the Department of Corrections and telecommunications providers was established in order to identify and evaluate solutions to the problem of mobile phones in prisons.

As a result, the following technologies were identified as suitable for use in New Zealand's prisons in various combinations: detectors which identify mobile telephone activity within an area; local blanket jammers which block mobile telephone signals in a localised area; micro cell jammers (towers) which block mobile telephone use in parts, or all, of a prison site; and hand-held mobile telephone detectors.

A further MoU which stipulates the terms of an agreement to implement the most effective technical solutions has been signed. Telecommunication carriers also announced a jointly proposed industry Code of Practice to address the challenges of unauthorised mobile telephone use in prisons.

In the testing and evaluation stage of the project, individual characteristics of each prison were assessed in order to determine the suitability of each of the above solutions with reference to the geographical location of the prison, the surrounding area, the proximity of residential and other nearby populated areas and the effect upon legitimate mobile phone users.

For example, at Rimutaka Prison and the Northland Region Corrections Facility, both of which are isolated from any residential area, mobile telephone blocking towers were considered to be a suitable solution, whereas Mt Eden Prison in central Auckland was considered more suited to a combination of local blanket jammers and detectors.

The mobile telephone jamming technologies introduced in New Zealand's correctional facilities complement other initiatives to manage contraband in prisons, such as single points of entry to make searching easier and harsher penalties for people found with a mobile telephone inside a prison. Under New Zealand law, any inmate, staff member or contractor found with a mobile telephone inside prison parameters may be sentenced to a prison term of up to one year, or receive a fine of up to \$5000.

The approximate cost of implementing the cell phone jamming technology across New Zealand's 20 prisons is \$5 million.

New Zealand's advice is that detection is not a satisfactory solution to manage the issue of prisoners accessing mobile telephones. New Zealand has advised that, in the case of prisoners using text messages, detection is ineffective due to the extremely short time it takes to transmit such messages.

New Zealand has also advised that jamming technology can be sited to operate solely within the prison boundaries and that fears about the possible interference with licensed radiocommunications; possible disruption of telecommunications; safety of life issues (such as the interference of 000 calls); interference to licensed services and other services in adjacent spectrum bands; the effect upon legitimate users within a certain radius; and possible radiation levels of jamming devices, particularly in confined areas have not eventuated.

Summary

Preventing inmates using illicit mobile phones is an on-going challenge for Australian correctional service providers. A collaborative approach to the problem, such as that demonstrated by New Zealand, is sought in order to effectively manage the issue.

While certain tensions exist between the interests of the security of prisons, the security of the broader community, the commercial interests of carriers and the development of new technologies, New Zealand has demonstrated that these challenges can be effectively addressed. The co-operation of all stakeholders has led to ongoing success experienced since the implementation of a range of solutions in New Zealand's correctional facilities.

In New Zealand, the brokering of relevant MoUs between stakeholders made the implementation of the technologies in prisons possible and allows for on-going flexibility in relation to the anticipated future rapid development of new technologies.

Co-operation and flexibility between correctional services providers, relevant government departments and telecommunications carriers is needed to explore the various mobile phone jamming technologies and address safety concerns associated with any new technologies being introduced into prison facilities.

There is increased community concern regarding terrorist-related activities in parts of the world and inmates using mobile phones in prisons presents a grave security risk in this regard. Urgent action is required; the more rapidly technology advances, the less effective current means of detecting are in response to the illegal use of mobile phones in prisons. The use of mobile phones by inmates in the Australian correctional system is unacceptable to the community and to governments at all levels. The eradication of the illicit

use of mobile telephone technology must be addressed with a common sense of responsibility amongst all stakeholders.