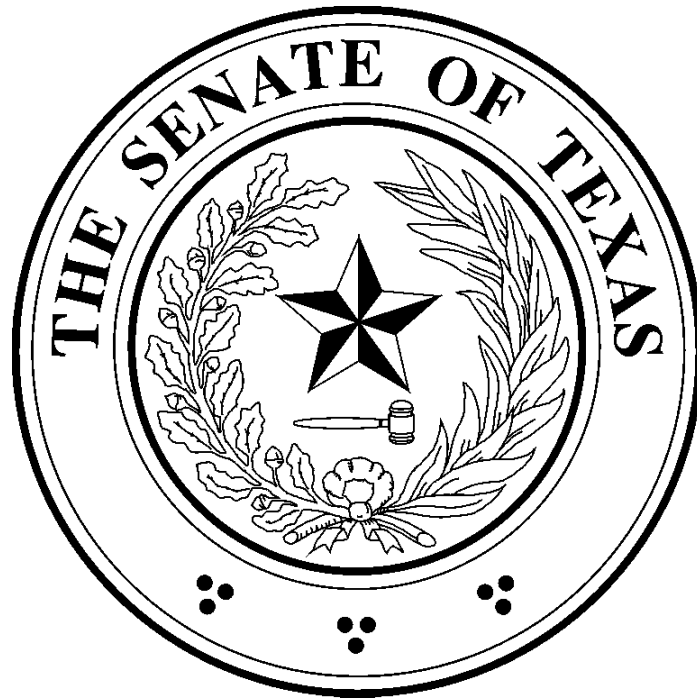


**Contraband Cell Phones in Texas
Prisons, Presentation to the
United States Senate Committee
on Commerce, Science and
Transportation
July 15, 2009**



Texas State Senator John WHITMIRE

Contraband Cell Phones within Texas Prisons, Presentation by Texas State Senator John Whitmire to the United States Senate Committee on Commerce, Science and Transportation, July 15, 2009

The fastest growing and most alarming development in the introduction of contraband within the Texas prison system is the inmate's use of cell phones. I am here today to support Senator Hutchinson's Senate Bill 251, which would allow the jamming of contraband cell phones within a prison setting. Based on my personal experiences of having a death row inmate, convicted of two senseless murders, call me several times on his cell phone while incarcerated on Texas' death row. These calls were made from the Polunsky Unit's death row section, which is supposed to be the securest part of the Texas prison system.

On October 7, 2008 my office received a phone message from an individual who claimed to be a personal friend of mine. Although I did not recognize the name I returned the call later that evening. During the conversation, the individual admitted he really did not know me but he was contacting me to ask for assistance for a death row inmate he knew who had complaints about the conditions of his housing. Later in our conversations he admitted that he was that death row inmate and his name was Richard Tabler. Not being convinced or thinking it was even possible for him to make such a call, he proved his identity by holding the phone so that I could hear the unforgettable sounds of a prison in the background, the clanging of steel doors and hollering of voices.

Now convinced that he was a death row inmate and using a cell phone from prison I contacted John Moriarty, the Inspector General for the Texas Board of Criminal Justice, who heads up the agency with police powers to investigate crimes in prison. We agreed that I would continue to accept these calls while his office opened an investigation to locate and seize the phone from inmate Tabler. In subsequent cell phone conversations inmate Tabler discussed my two daughters, where they lived and other details that he wanted me to know he knew. Frankly, that scared the hell out of me and convinced me that an inmate having this ability represented a major public safety issue.

While working with John Moriarty, I continued to accept the phone calls to gain information to assist the investigation. Soon inmate Tabler began to ask favors, such as a special visit from his mother who lived out of state.

The issue came to a conclusion on October 20, 2008 when a cross state police sting operation took place leading to the arrest of Tabler's mother when she arrived at the Austin - Bergstrom International Airport on a flight from her home in Georgia. Prison officials found inmate Tabler in possession of a cell phone on death row. Inmate Tabler's mother and sister were indicted with the Felony criminal offense of assisting an inmate to obtain a contraband cell phone in prison. As the investigation continued, a letter was received by OIG from inmate Tabler threatening retaliation by having me murdered.

I then found out that this was not the first cell phone confiscated from death row, and that it was indeed the 19th cell phone that year and that 670 cell phones had been found system wide within the Texas Department of Criminal Justice (TDCJ) in 2008. I became even more concerned when it was revealed that Tabler was not the only death row inmates using this cell phone, as many as nine death row inmates had made over 2,800 phone calls from the same cell phone during the past month alone. I was also alarmed that some of these inmate were identified as members of prison gangs including the Texas Syndicate, Aryan Brotherhood of Texas and the Crips. The potential for an inmate to orchestrate an assortment of crimes and harass victims is a very real and present danger.

On October 20, 2008, based on the developing investigation, Governor Rick Perry ordered the Texas Board of Criminal Justice to take immediate action to increase prison security by locking down the entire system and conducting individual cell searches in all 112 prison units and of all the 156,000 inmates.

Due to these major security breaches within TDCJ and the presence of cell phones within the Death Row housing of the Polunsky Unit, I called an emergency meeting of the Senate Committee on Criminal Justice on October 21, 2008. Following the public hearing I sent a letter to Oliver Bell, Chairman of the Texas Board of Criminal Justice, and Brad Livingston, Executive Director of the Texas Department of Criminal Justice. It reads:

After Tuesday's hearing concerning the overwhelming amount of contraband in our prisons, I am convinced that an urgent, sustained response is required to implement zero tolerance on contraband. The prevalence of contraband is well documented and has been widely publicized including:

- May 2008 media report alleging that corrupt officers were taking over a prison
- May 2008 KPRC news station of charges of prison corruption
- May 2008 media reports of prison warden removed for corruption
- May 2008 media reports of the Terrell Unit lockdown over contraband issues
- May 2008 TDCJ commitment to investigate roadside clash with KPRC news crew
- May 2008 TDCJ termination of prison captain due to corruption
- June 2008 Criminal Justice Legislative Oversight Committee held hearing on prison corruption

I will not even attempt to list the media coverage prior to or after the hearing held October 21, 2008, along with the Governor's order for a statewide lockdown of the entire prison system to search for contraband. I am totally convinced that unless the following improvements are immediately implemented, significant safeguards will not be in place:

- A complete search of all individuals entering a prison to include the use of electronic metal detectors (only 22 units out of 112 have these machines), searching of property and pat down searches, monitored by law enforcement and ranking prison officials
- **Cell phone jamming blockers and monitoring systems**
- Increased and constant use of drug detection dogs or systems
- Rewards for inmates and correctional officers reporting contraband violations
- Vigorous prosecution of alleged violators and strong punishment
- Maximized use of surveillance cameras with the capability to digital record the video and audio. Equipment must be in all areas of each unit (TDCJ has 5000 old cameras among 112 unit, many not operative, while Texas Youth Commission with 14 units has 8,000 new digital cameras with recording capability)

- Long term movements to professionalize the correctional officer positions and their supervisors, with increased compensation and higher entry standards

It is imperative that Mr. Livingston advise Mr. Bell, the Legislature and the State leadership in a very detailed, accurate, and urgent manor of the resources required to correct the observed and documented dysfunctions within TDCJ operations.

I understand the challenges of operating the second largest prison system in our nation, but we must respond to these challenges with a sense of urgency and have the will to conquer and overcome the barriers in front of us. The citizens of Texas deserve no less than our maximum efforts and will not settle for less than significant, sustained, and successful actions.

I would love to report to this committee that the intensive actions taken so far have resolved the problems of cell phones in prison; however, that is not the case:

- the additional money appropriated to TDCJ during our last legislative session will not be enough to fix this matter in the long term,
- and the enhancements to our criminal laws to aid prosecution of these matters and increased penalties will not in itself solve these problems.

Our problems and those of other states in combating contraband cell phones in our prison system continues and requires additional tools to correct this issue. Since the system wide lockdown and searches were completed, an additional 946 cells phones have been confiscated in the Texas prison system this year.

The authority to jam cell phones in specified prison property, will help render these contraband items useless. Cell phone jamming is a required element that is needed to resolve this problem.