

## ON H.R. 1889, PHONES AND CORNELL

By: Gary Harkins

We all know by now that ACO/ACORN supports the Private Prison Information Act of 2007 (H.R. 1889) and its companion bill in the Senate (S.2010). These bills would require private prisons and other correctional facilities under contract with federal agencies to house federal prisoners to make their records accessible under the same FOIA requirements that govern federal prisons. Currently, privately owned and operated facilities are not subject to the same FOIA scrutiny as public agencies.

Recently, two lawsuits were filed trying to force private prisons to release records, including one filed by the American Civil Liberties Union investigating the deaths of immigrant detainees in federal custody. The ACLU filed an FOIA lawsuit against the Department of Homeland Security in June in the U.S. District Court for the District of Columbia after DHS failed to turn over documents related to the deaths of immigrants held in public and private detention centers. The lawsuit also named Immigration and Customs Enforcement and the Office of the Inspector General for DHS.

Prison Legal News, a monthly magazine that covers prison issues, filed a lawsuit against CCA in a Tennessee court on May 19 after CCA did not respond to a public-records request. The lawsuit, *Friedmann v. CCA*, argues that CCA performs a public function, and its records should be public. In 2002, the Tennessee Supreme Court ruled that a private company performing a public function must make its records available to the public under the Tennessee Public Records Act. On July 29th, a Nashville judge ruled that CCA was indeed subject to Tennessee's open records law. The judge ordered CCA to provide information on settlements, judgments and complaints against the company. The court found that CCA is like a government agency in that the Tennessee constitution makes the custody and control of inmates a state function. Of course CCA will file an appeal.

It is very important that you contact your Congresspersons and Senators when they tour their districts during this summer recess and push strongly for the passage of H.R. 1889 and S. 2010.

With today's technology comes a new threat to our institutions. More and more facilities are having problems with cell

phones in the cells. Not only are they being used to contact loved ones, but they are being used to plan escapes, orchestrate crimes and order retaliation against other inmates.

In Nevada, a dental assistant was fired for helping an inmate get a cell phone used in a successful escape. In Florida, cell phones have been used to plan an escape and threaten members of the public. In Tennessee, peanut butter jars were banned after it was learned that one was used to hide a cell phone used to coordinate an escape by an inmate who was later accused of shooting a correctional officer.

Florida and Maryland have joined other states in making the penalty for providing cell phones to inmates tougher. Texas just made regular phones available to inmates due to the increasing use of contraband cell phones. Maryland recently made it a misdemeanor and Florida made it a felony to possess cell phones improperly inside a facility. Texas, who boasts of having the worst contraband cell phone problem in the country, now can hand out sentences up to 40 years for a

*(Continued on page 5)*



(Continued from page 4)

contraband cell phone. In Texas prisons, cell phones go for \$200 dollars while heroin goes for \$50 dollars.

One way facilities are combating the cell phone problem is by using trained dogs to sniff them out. A company called All-States K9 Detection in California trained cell phone dogs for Virginia last year. They also trained three dogs for Maryland this year. Maryland's dogs not only sniff out the cell phones, but they can find the SIM cards or other components of a cell phone. Cell phones, one more thing to watch out for in our facilities.

Speaking of phones. The T. Don Hutto Correctional Center in Taylor Texas, which is operated by CCA, is shutting off the inmate's ability to call 9-1-1 for assistance. They have also decided to block all incoming phone

calls to inmates as well. The Regional Spokesman for I.C.E. (Immigration Customs Enforcement) stated that the inmates did not need to have access to 9-1-1 because there are onsite emergency medical personnel and facilities. Critics charge that blocking the 9-1-1 calls prevents the inmates from calling the police and reporting abuse. Local organizer and protester Bob Libal stated that not allowing immigrants to place emergency phone calls is unsafe and that residents need access should they feel the need to call the police. CCA responded that their employees have a good sense on when 9-1-1 needs to be called.

Lastly, on the political front. University of Houston Associate Professor of Law Tony Chase, joined Senator Barack Obama's National Finance Committee. In addition to various responsibilities, Chase sits on the board of directors for Cornell Companies Inc. As we all know, Cornell is one of the nation's private prison companies. Do you suppose Chase and Cornell will work to influence Obama's positions on criminal justice policy including federal detention practices? Hopefully Obama will reject their input.

Sources: *First Amendment Center, The Daily Cougar, Associated Press, Tennessean, Texas Prison Business*



Gary Harkins is a retired Sergeant and a 25 year veteran of Oregon Corrections. Here he is at a privatization protest in Florida.