



NATIONAL SHERIFFS' ASSOCIATION

AARON D. KENNARD
Executive Director

December 4, 2013

The Honorable Greg Walden
Chairman, Subcommittee on Communications
and Technology
Committee on Energy & Commerce
U.S. House of Representative
Washington, DC 20515

The Honorable Anna G. Eshoo
Ranking Member, Subcommittee on
Communications and Technology
Committee on Energy & Commerce
U.S. House of Representative
Washington, DC 20515

Re: December 12, 2013 Hearing

Dear Chairman Walden and Ranking Member Eshoo:

On behalf of the National Sheriffs' Association (NSA) and the more than 3,000 elected Sheriffs nationwide whom NSA represents and who operate about 80% of the jails in this country, I write to bring an important issue to your attention in connection with your December 12, 2013, hearing with the Federal Communications Commission (FCC) commissioners. Specifically, the FCC's *Report and Order and Further Notice of Proposed Rulemaking on Rates for Interstate Inmate Calling Services* (WC Docket No. 12-375), which becomes effective on February 11, 2014, will reduce the revenues available to Sheriffs' offices, which, to a large extent, are used to provide security and services necessary to allow inmate calling. Because Sheriff budgets are already set for 2014, we are concerned that many Sheriffs will not have the financial resources necessary to continue to perform their vital security functions and still allow interstate calling by inmates. **To avoid this harm, NSA believes the FCC should delay the implementation of its *Order* as it applies to Sheriffs.**

The FCC *Order* has set an interim rate structure on interstate inmate calling services (ICS), which reduces the rate that can be charged for interstate ICS in both prisons and jails. The FCC's interim rates fail to take into account the unique challenges inherent in providing telephone privileges to inmates in jails. Inmate telephone systems are built to reflect the unique needs of each correctional facility and provide a variety of important security components. These security components come at a cost to the facility. Moreover, the small size of most jails, coupled with high turnover rates, means that jails must charge more per minute than larger facilities in order to recover the costs of providing ICS. The *Order* disregards these realities. It imposes unrealistically low rate caps and other restrictions that will reduce revenues to jails and limit the ability of ICS providers to recover costs of administering services in smaller, higher cost

facilities. As a result of the FCC's "one-size-fits-all" approach to ICS, many jails may be forced to severely limit or altogether eliminate inmate telephone privileges.

In the Further Notice of Proposed Rulemaking (FNPRM), the FCC seeks to compound the harm to Sheriffs by extending its rules to intrastate inmate calling services. Further, although the FCC seeks comment on establishing cost-based permanent rates for ICS, its timeline for comments (due December 13, 2013) and reply comments (due December 30, 2013) is extremely short, which will preclude the ability of NSA, State Sheriffs' Associations and individual Sheriffs' Offices from developing the information necessary to provide a full picture of the harm that will result from the FCC's rate caps and rules. **NSA believes the FCC should provide additional time for Sheriffs to file comments and reply comments in this important proceeding.**

Finally, NSA is extremely concerned by the FCC's posture in the Order and FNPRM concerning its authority to intrude on the authority of Sheriffs to manage their jails and inmate populations by, among other things, limiting the cost recovery of security measures employed in jails, requiring the availability of international calling, requiring Sheriffs to allow multiple ICS providers within the jail, and requiring jails to maintain a certain number of telephones per inmate. **NSA believes Congress should clarify that the FCC's authority under the Communications Act does not extend to these areas.**

Sheriffs do not oppose all reforms for interstate inmate calling services, including reasonable regulation of interstate ICS rates in jails. However, any such reform should fully consider the critical public safety aspects of ICS, the individualized environment in which services are offered, and the full impacts on safety and security of any particular regulatory approach. Reforms also must be implemented in a time frame that allows Sheriffs to modify their budgets to accommodate changes in revenues. These criteria have not been met in the interim rate structure established in the FCC's Order. Further, the FCC's unrealistically short comment cycle in the FNPRM ensures that they will not be met in this proceeding, either.

Accordingly, NSA seeks your support in obtaining a commitment from the FCC to:

- 1. Delay the implementation of its Order as it applies to Sheriffs.**
- 2. Provide additional time for Sheriffs to file comments and reply comments in the FNPRM.**

Sincerely,



Sheriff (ret.) Aaron D. Kennard
Executive Director

cc: Members, House Committee on Energy & Commerce, Subcommittee on
Communications and Technology