

Executive Order No. 2018-10

WHEREAS, the South Carolina Department of Corrections (“SCDC”) must prevent contraband, such as drugs and cell phones, from entering correctional facilities; and

WHEREAS, persons throw and drop by drone contraband packages over outside, exterior correctional facility walls and fences into the interior yards of correctional facilities; and

WHEREAS, contraband in correctional facilities is a significant public safety issue, allowing incarcerated individuals to continue criminal activities from behind bars; and

WHEREAS, specifically, inmate access to contraband cell phones is one of the most serious correctional security concerns and public safety problems facing corrections officials across the country, with illegal cell phones now posing the single greatest threat to the safety of correctional officers and staff both at work and at home; and

WHEREAS, the use of cell phones by incarcerated individuals is not just a correctional security concern and public safety problem, but also a growing criminal justice crisis that often leads to violent situations both inside and outside of correctional facilities, and thus endangers SCDC officers and staff, other inmates, and the public at large; and

WHEREAS, incarcerated persons continue criminal activities using cell phones in correctional facilities, to include: continuing drug trafficking or other unlawful enterprises; threatening witnesses and victims; arranging escapes; extorting money from other inmates’ families; and arranging murders; and

WHEREAS, SCDC confiscated approximately 3,037 cell phones and cell phone accessories in 2014, and this number has since increased to approximately 7,240 in 2016 and to approximately 6,272 in 2017; and

WHEREAS, although contraband cell phones represent an increasing problem in South Carolina’s correctional facilities, federal law, as interpreted and applied by the Federal Communications Commission (“FCC”), currently prevents state officials from using existing technology to effectively combat this dangerous threat; and

WHEREAS, SCDC Director Bryan Stirling has asked the FCC and the U.S. Department of Justice to allow the jamming of wireless signals in correctional facilities, prompting the FCC Chairman Ajit Pai to acknowledge in a public statement that “[t]he illegal use of wireless devices in prisons is a major threat to the safety and welfare of correctional facility employees, other inmates and the public. This must change and fast.”; and

WHEREAS, SCDC officers search inmate cells every day for contraband and SCDC has increased its number of officers, but SCDC does not have enough officers to patrol the perimeter of correctional facilities to deter members of the public from throwing or dropping contraband over correctional facility walls and fences; and

WHEREAS, pursuant to sections 1-3-410 *et seq.* of the South Carolina Code of Laws, the Governor may take all measures he deems necessary to prevent violence or threats of violence to the person or property of South Carolina and may proclaim that an emergency exists due to such threats and effect any orders or directions to address or minimize imminent danger or prevent a breach of the peace; and

WHEREAS, in accordance with the aforementioned authority, the Governor may call out the military forces of the State, or any unit or units thereof, such as the all-volunteer South Carolina State Guard, and order them to take actions as needed to stop violence or threats of violence; and

WHEREAS, pursuant to Article XIII of the Constitution of this State, the Governor may call out the volunteer and militia forces to execute the laws of this State or to preserve the public peace.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby proclaim that an emergency exists due to contraband entering correctional facilities over exterior correctional facility walls and fences and for the limited purpose of addressing the same. *See* S.C. Code Ann. §§ 1-3-420, -430. Accordingly, I hereby order the South Carolina State Guard to assist SCDC by staffing the exterior of correctional facilities and manning and monitoring from fence towers to prevent such contraband from being thrown or delivered by drones over perimeter walls and fences, as well as performing all other related activities memorialized and prescribed in a Memorandum of Understanding (“MOU”), as set forth more fully below. S.C. Code Ann. § 25-1-440(a)(4); S.C. Code Ann. § 1-3-410. Because said conduct can constitute a breach of the peace or an imminent danger thereof, the South Carolina State Guard members who actively serve this mission shall be, for the limited purposes set forth herein and under the MOU, invested with all the authority of sheriffs and deputy sheriffs in enforcing the laws of this State. S.C. Code Ann. § 25-3-130.

Further, SCDC Director Bryan Stirling; Major General Robert E. Livingston, Jr., Adjutant General; and Major General Thomas S. Mullikin, Commander of the South Carolina State Guard, shall enter into a MOU on behalf of their respective organizations within twenty (20) days of entry of this Order. The MOU shall set forth how many South Carolina State Guard personnel will be needed, the correctional facilities where they will be utilized, the duties required, costs and liabilities to be borne by the respective agencies, and other workplace parameters that will govern State Guard operations. This MOU may be modified by agreement and signature of all three organizations to accommodate additional needs. This Order is effective immediately and shall remain in effect until such time as emergency conditions no longer exist as declared in an Order or until otherwise modified, amended, or rescinded by subsequent Order.

**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF SOUTH
CAROLINA, THIS 27th DAY OF
FEBRUARY, 2018.**

**HENRY MCMASTER
Governor**