



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON DC

April 5, 2019

Mike O'Rielly  
Commissioner

The Honorable Andrew M. Cuomo  
Governor, State of New York  
NYS State Capital Building  
Albany, NY 12224

The Honorable Gina M. Raimondo  
Governor, State of Rhode Island  
Office of the Governor  
82 Smith Street  
Providence, RI 02903

The Honorable Phil Murphy  
Governor, State of New Jersey  
Office of Governor  
PO Box 001  
Trenton, NJ 08625

Dear Governors:

As you know, the Federal Communications Commission (FCC or Commission) has been charged by the U.S. Congress with ensuring that 9-1-1 consumer fees paid to states, territories, and some localities are used for their intended purpose. While leaders within other states and territories guilty of diverting such funds have been willing to end their practices, unfortunately your three states, which are habitual diverters of 9-1-1 fees, appear to have little interest in correcting this harmful behavior. Regrettably, I find it necessary to personally implore you to reconsider the diversionary tactics being used within your states in order to strengthen the public safety communications capabilities available to those living and traveling within your borders.

To put the problem in context, your respective states diverted the most money in both total funding diverted and on a percentage basis, according to the Commission's most recent report.<sup>1</sup> In particular, New York, New Jersey, and Rhode Island were responsible for diversions of \$170.9 million, \$94.2 million, and \$11.4 million, equating to 90.35%, 77.26%, and 67.7%, respectively, of monies received. In the case of Rhode Island and New Jersey, the collected funds diverted were used for purposes completely unrelated or were not demonstrated to be related to emergency communications. Similarly, in New York, the Commission found that the vast majority of funding did not go to 9-1-1 related purposes and a mere \$10 million of the \$75 million in the states' various "public safety grants" were 9-1-1 related.

Diversion of 9-1-1 fees is a serious public safety matter. The mere act undermines the willingness of consumers, feeling duped by their local and state representatives, to support current levels and future raises in program spending, even when there is a compelling need to modernize individual systems. Without assurances that the funding is being spent on 9-1-1 functions, the validity of the fee imposition and the confidence in emergency call systems is damaged. In addition, the diversions in your states call into question and reduce overall support for the entire fee structure, even in areas outside your states. In other words, your fee collections' untrustworthiness is contagious.

---

<sup>1</sup> Tenth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges for the Period of January 1, 2017 to December 31, 2017 (Dec. 17, 2018), <https://www.fcc.gov/files/10thannual911feereporttocongresspdf>.

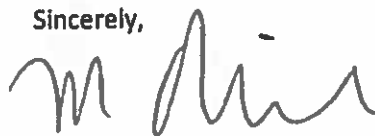
More importantly, spending precious 9-1-1 funds on unrelated matters shortchanges the budgets of emergency call centers and has prevented systems from being upgraded. Having visited each of your states to understand the impact of such diversions, I can share with you that your call centers are either not sufficiently robust (e.g., NG911-ready) or are forced to supplement local call center budgets with local revenues to compensate for fees siphoned off by the state government. While the public safety officials I met with are proud of the amazing work performed by their dedicated staff—and rightfully so—they are equally outraged that their systems and resources are not as advanced as they should be because their state governments are misappropriating 9-1-1 funding.

Beyond the impact on public safety, the diversionary actions of your states make them ineligible for new federal funding to modernize emergency call centers. Specifically, under the Middle Class Tax Relief and Job Creation Act of 2012, Congress created a new \$115 million grant program to fund 9-1-1, E9-1-1, and NG911 grants to migrate existing networks to IP-based advanced networks and promote adoption of NG911 services and applications. In the same law, Congress specifically defined eligibility to exclude those states and territories – such as yours – that divert 9-1-1 fees. Funding at such a level may seem minor compared to the amount of your budgetary diversions, but Congress has been asked to furnish the grant program with multiple billions of dollars of additional funding, which is under consideration according to my conversations with the requisite congressional leadership.

The practice of diverting 9-1-1 fees gives your states proverbial black eyes, harms public safety, and makes your states ineligible for funding to modernize your emergency call centers. This entire situation, however, is entirely fixable. If you are ready to exert the necessary leadership, I stand ready to work with you to eliminate the 9-1-1 fee diversion practices of your respective states. As such, I am prepared to publicly testify, including at state budgetary hearings, and/or meet to discuss the issue with whomever you believe would best be able to address the situation in your state.

I look forward to working with you to end this objectionable practice in your state once and for all.

Sincerely,

A handwritten signature in black ink, appearing to read "M. O'Rielly", written in a cursive style.

Michael O'Rielly