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911 Call Center Legislation: S. 1250 and H.R. 2898

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Summary

Before Congress there now stand two bills that could strengthen 911 emergency call centers (Public Safety Answering Points, PSAPs) with new planning efforts and matching grant funds. In early 2003 Congress launched a bipartisan E911 (Enhanced 911) Caucus whose co-chairs subsequently introduced E911 legislation in both chambers. Although the two bills are similar in intent and have parallel provisions, there are also points of divergence with significant implications for emergency communications policy. Enhanced 911 refers to the capability of identifying the phone number and location of a call to a PSAP. The technology is widely used for wireline calls and is now being implemented for wireless calls. Among the obstacles encountered in the implementation of wireless E911 is the cost to PSAPs of upgrading systems and supporting expanded operations.

Both S. 1250, the Enhanced 911 Emergency Communications Act of 2003, and H.R. 2898, the E-911 Implementation Act of 2003, would include the National Telecommunications and Information Administration (NTIA) in programs to establish and manage coordination and funding programs as specified in the bills. Both bills propose 50-50 matching grants. Both bills would monitor state-authorized phone bill surcharges collected for 911 funding and penalize those that divert these funds to other purposes if they apply for grants.

The Senate bill supports "ubiquitous" enhanced 911 nationwide; grants could be for any form of emergency communications, although preference would be given to PSAPs. The bill separates the function of coordinating efforts to improve emergency communications from that of providing funds. The House bill focuses on wireless E911 technology for location identification and links the planning and funding process in a Coordination Office. The Senate bill authorizes annual appropriations for grants totaling up to $500 million. The House bill caps grants at $100 million annually beginning in FY2004 and ending in 2008. The House bill adds a section addressing wireless E911 implementation by certain rural carriers. Both bills were reported out of committee and placed on the calendars for floor action. On November 4, 2003 the House approved an amended version of H.R. 2898. The bill is awaiting action by the Senate. Observers report that the difference in funding that would be authorized by the bills is the primary obstacle to passage.

Other legislation regarding call centers includes companion bills (S. 1630, Senator Clinton and H.R. 3111, Representative Burr), that would facilitate the availability of 211 call centers that support community needs for information and referral, and a bill that would direct the Secretary of the Department of Homeland Security to put in place an emergency alert system built around the capabilities of private-sector call centers (H.R. 2250, Representative Meek of Florida). The performance of 911 call centers on September 11, 2001 was criticized in *The 9/11 Commission Report*, with a recommendation that the role of call centers be incorporated in planning for emergency response (p 318).

This report will be updated to follow legislative activity related to the two 911 call center bills.

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Overview

The 108th Congress is considering passage of its second piece of legislation in less than five years with the intent of furthering the deployment of 911 services. The bills under consideration focus on funding for 911 call centers, a measure not included in the earlier legislation. Language in the new bills revisits one of the sections of the earlier law: the need for federal leadership to coordinate state and local efforts to provide 911 services, and in particular to extend 911 technology to include calls from cell phones. Both bills propose to use matching grants to encourage wireless 911 deployment, and also as a means of penalizing states that have misused funds purportedly collected for 911 purposes. Although both bills advocate federal leadership, neither bill proposes solutions that would build on existing efforts by federal agencies, notably those of the Department of Transportation (DOT) and the Federal Communications Commission (FCC). The Bush Administration, in a letter dated September 30, 2003,[1] has suggested that the National Highway Traffic Safety Administration (NHTSA) at DOT be given a role in providing direction. H.R. 2898 as amended and passed by the House would provide for programs jointly administered by NHTSA and the National Telecommunications and Information Administration (NTIA). The two bills and the Bush Administration's recommendations are not specific as to how proposed grants could be leveraged to support a national policy regarding 911 call centers and other citizen-activated emergency communications. The National Emergency Number Association (NENA) has been circulating among members of Congress a position paper that urges lawmakers to focus on the "essential practical policy elements" such as assuring the creation of a National Coordinating Office. NENA also urges that the focus of the grants be 911 systems, not just wireless 911.[2]

The Wireless Communications and Public Safety Act of 1999 (P.L.106-81) mandated 911 as the universal emergency assistance number and encouraged the deployment of enhanced 911 (E911) services. E911 refers to the capability of identifying the phone number and location of a call. In P.L.106-81, the FCC was charged with coordinating the efforts of key participants and encouraging state participation in implementing technology for E911, including wireless E911. The

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[1] Letter to the Honorable W.J. "Billy" Tauzin, Chairman, Committee of Energy and Commerce, signed by Theodore W. Kassinger, General Counsel, Department of Commerce and Rosalind A. Knapp, Assistant General Counsel, Department of Transportation. Referred to in the Committee markup of October 1, 2003.

[2] "Discussion of Required Concepts and Agendas for Congressional 9-1-1 Legislation," available from Stephen R. Seitz, Director of Government Affairs, NENA, sseitz@nena.org.

FCC narrowed its focus to efforts for regulation and compliance oversight for wireless carriers, distancing itself from state programs.[3] For regulatory purposes, technical support for E911 by wireless carriers was divided into two phases by the FCC. Phase I requires identification of the phone number and general location of a wireless call to 911. Phase II sets more stringent standards for identifying the location of a wireless caller. Implementation of Phase II was to have commenced in October 2001 but has been hampered by delays from many causes.[4] Among the obstacles encountered in the implementation of wireless E911 is the cost to call centers, known as Public Safety Answering Points, or PSAPs, of upgrading systems and supporting expanded operations to receive and process Phase II. Nationwide, the National Emergency Number Association has estimated that $3.6 billion is required for 911 system upgrades, with operation and maintenance costs of $1.7 billion annually.[5]

S. 1250 and H.R. 2898 — two bills that would aid 911 call centers — have comparable intents but reflect different approaches in policy and oversight. S. 1250, the Enhanced 911 Emergency Communications Act of 2003 (Senator Burns), was reported out of the Committee on Commerce, Science and Transportation on August 26, 2003 without amendment and has been placed on the Senate Legislative Calendar. H.R. 2898, the E-911 Implementation Act of 2003 (Representative Shimkus), was introduced on July 25, 2003. It was the topic of a hearing on September 11, 2003[6] and was amended in mark up on September 23 by the Subcommittee on Telecommunications and the Internet. The bill, as amended, was approved by the full Committee on Energy and Commerce on October 1, 2003. The bill was further amended and passed by the House on November 4, 2003. It is the final version of the House bill that is discussed in this report along with S. 1250.

In the September 30, 2003 letter addressed to Chairman Tauzin of the House Committee on Energy and Commerce, the Bush Administration expressed opinions regarding some provisions of H.R. 2898. Two key suggestions from the

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[3] For example, in a letter on funding issues written in May 2001, the Wireless Telecommunications Bureau concluded that differences in state laws and regulations governing 911, and the variety of existing agreements between telecommunications carriers and PSAPs, "argue against a uniform federal mandate." May 7, 2001, to the E-911 Program Manager of King County, Washington. This letter can be accessed at [http://www.fcc.gov/911/enhanced/releases.html#lt] under Letters, "King County." (Viewed June 17, 2004.)

[4] Many of the obstacles are discussed in "Report on Technical and Operational Issues Impacting the Provision of Wireless Enhanced 911 Services," known as the Hatfield Report, submitted to the FCC on October 15, 2002. Web access to the report can be found at [http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6513296239]. (Viewed June 17, 2004.) The Hatfield Report is discussed in CRS Report RS21028, *Emergency Communications: Wireless Enhanced 911 Issue Update*.

[5] Reported in "Emergency Responders: Drastically Underfunded, Dangerously Unprepared," report of a task force sponsored by the Council on Foreign Relations, released July 29, 2003, at [http://www.cfr.org/pdf/Responders_TF.pdf]. (Viewed June 17, 2004.)

[6] Committee on Energy and Commerce, Subcommittee on Telecommunications and the Internet, September 11, 2003 hearing, "H.R. 2898, The E-911 Implementation Act of 2003."

Administration concern the role of the managing partner in E911 coordination and the manner in which grants should be managed.

Role of Managing Partner. Both S. 1250 and H.R. 2898 would direct the NTIA of the Department of Commerce to establish and manage coordination and funding programs. The Senate bill would have the NTIA create a Task Force and specifies the composition of the Task Force in terms of representation.[7] The House bill would establish an E-911 Coordination Office to be jointly administered by the NTIA and the NHTSA.[8] The House bill is more specific than the Senate bill regarding goals but silent on the means of involving the public safety community and others in meeting the Office's goals. The inclusion of the NHTSA in the Coordination Office opens the possibility of outreach through the existing E911 Steering Council created by DOT.

The Bush Administration has suggested that an E-911 Joint Program Office be created and administered by the Assistant Secretary of Commerce for Communications and Information, who directs the NTIA,[9] and by the Administrator of the NHTSA at DOT. The program would be located within NHTSA and would coordinate with the Departments of Homeland Security and Justice and with the FCC. In 2002, DOT began a program to foster cooperation and dialog among key participants. Among other actions, a partnership between DOT and three public safety associations was formed in support of a Wireless Implementation Program.[10] Much of the recent 911 leadership from DOT has been provided by NHTSA as part of its program for Intelligent Transportation Systems (ITS). The amended House bill did incorporate the NHTSA into its proposed Coordination Office but took no action on the Bush Administration's other recommendations.

Grants. Both bills would provide for grants to aid PSAPs in the form of matching grants to states and other entities. The Senate bill envisions "ubiquitous" coverage for 911,[11] mirroring language in P.L. 106-81.[12] The Senate bill would permit a broad range of programs for emergency communications that might be eligible for grants[13] but does direct that programs that include PSAPs be given priority in grant-making decisions.[14] The House bill specifies that grants are to go

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[7] S. 1250, Section 4, Section 158 (a) (1).

[8] H.R. 2898, Section 2, Section 158 (a) (1).

[9] The Bush Administration has proposed eliminating the NTIA. The status of the NTIA is discussed in CRS Report RS21469, *The National Telecommunications and Information Administration (NTIA): Budget, Programs and Issues*, by Glenn McLoughlin

[10] Details on DOT programs for E911 are at [http://www.itspublicsafety.net/wireless.htm] or [http://www.nena.org/dot/]. (Viewed June 17, 2004.)

[11] S. 1250, Enacting Clause and Section 3 (2).

[12] P.L. 106-81, Enacting Clause and Section 3 (b).

[13] S. 1250, Section 5, Section 159 (a) and (c).

[14] S. 1250, Section 5, Section 159 (c) (1).

to programs for Phase II of wireless E911 implementation,[15] as well as stating requirements for the management, planning and implementation of E911 services.[16] The Senate legislation would authorize up to $500 million annually for grants under the program;[17] the House bill has a program with annual funding capped at $100 million.[18] The desire to get the most value from a smaller dollar program and to favor those who have invested in Phase I may explain in part the House Committee's focus on funding Phase II.

The Senate bill would separate the functions of the advisory Task Force from the grant-making process, which is determined by the Director of the NTIA, in consultation with the Director of Homeland Security.[19] In the House bill, the Coordination Office would be the conduit for grants but the scope of grants would be determined jointly by the Director of the NTIA and the Administrator of the NHTSA, consulting with the Secretary of Homeland Security and the Chairman of the FCC.[20] Although both the Task Force and the Coordination Office are instructed in the respective bills to facilitate coordination and communication[21] among a number of key stakeholders, it is not clear to what extent either of these bodies would be able to guide national policy regarding the development of enhanced 911 or other citizen-activated system, or to use the leverage of funding to accomplish policy goals. How the grant-making program administrators would decide to interpret the funding goals of the proposed law, as finally agreed, might become the primary policy tool in the future implementation of 911 technology.

The Bush Administration, as stated in the above-referenced letter of September 30, would address "the problem of E-911 implementation within existing funding rather than creating a new grant program" that could duplicate current efforts. Grants programs at the Departments of Homeland Security and Justice are mentioned by the Administration,[22] as is a program proposed for NHTSA to coordinate 911 calls with Emergency Medical Services (EMS) communications. The Administration suggests that its proposed E-911 Joint Program Office could "leverage" these and other grants programs, including one administered by a private foundation.[23] The letter also states the belief that "improved Federal leadership and coordination, within existing resources, could significantly improve the implementation . . ." of E911. How

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[15] H.R. 2898, Section 2, Section 158, (b) (1).

[16] H.R. 2898, Section 2, Section 158, (b) (3) and (4).

[17] S. 1250, Section 5, Section 159 (e).

[18] H.R. 2898, Section 2, Section 158, (d) (1).

[19] S. 1250, Section 5, Section 159 (a).

[20] H.R. 2898, Section 2, Section 158 (b) (1).

[21] S. 1250, Section 4, Section 158 (b) and H.R. 2898, Section 2, Section 158 (a) (3).

[22] The State Homeland Security Grant Program and the Urban Areas Security Initiative at the Department of Homeland Security, Office of Domestic Preparedness, and, at Justice, the Local Law Enforcement Block Grants, the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, and the COPS Law Enforcement Technology Grants.

[23] Public Safety Foundation of America [http://www.psfa.us/]. (Viewed June 17, 2004.)

leverage might be applied or the federal role improved is not specified in the letter although it does suggest that "further study is warranted" of successful wireless E911 deployment, as the possible basis for federal efforts. There is no information on possible criteria for grant eligibility other than that grants be denied when states or localities have diverted E911 funds.

Funding Goals. The bills' current differences in describing eligibility for funding are noteworthy. The broad-based funding guidelines of the Senate bill are consistent with its goal of ubiquity for 911 services, but could conceivably allow grants for other purposes, such as the purchase of radios for police cars, that many states and counties currently include in their 911 budgets. The House bill states that its main purpose is to assist wireless 911.[24] In describing requirements to qualify for grants, the House bill further specifies wireless enhanced Phase II.[25] Although conceivably a program to install Phase I and Phase II technology as a single package might be eligible, the House bill's language seems to preclude the possibility of grants, for example, for enhanced 911 for wireline, for Phase I of enhanced wireless services, or for technology to serve special needs, such as for the hearing-impaired. At the above-noted hearing on September 11, 2003 witnesses testified regarding the importance of Phase I, providing reasons such as its use as the default standard when Phase II technology solutions are incompatible.

The Senate bill states that ubiquity is the goal; the House bill focuses on implementing advanced technology and rewarding those that have already begun the implementation. With the current limitations of location identification technology for wireless E911, ubiquity can only be achieved for Phase I of E911. Funding primarily or exclusively the technology of Phase II, as the House bill would require, would provide advanced technology to some wireless 911 callers but likely leave others under-served. If an important objective of the funding plan is to reward states and others that have already made substantial investments in wireless E911 technology, one approach that has been suggested is to create a sliding scale for matching grants.[26] With this formula, the federal government could provide matching funds at higher percentage levels for programs for Phase II and other advanced E911 technologies. Also, funding for Phase I of E911 or even basic 911 might be conditional on the submission of a detailed plan to move to Phase II in a timely manner.

Diversion of 911 Funds. Almost all states have authorized some form of surcharge on telephone bills for the purpose of funding 911, E911 or wireless E911. There have been some cases where these funds have been transferred to the general treasury. Both bills want to ensure that federal grants received through the program Congress establishes are not used to replace monies that have been diverted from funds collected for emergency communications by taxes, charges or fees on telephone bills. The Senate bill seeks to protect from diversion funds designated for

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[24] H.R. 2898, Enacting Clause.

[25] H.R. 2898, Section 2, Section 158, (b) (1).

[26] Proposed by the ComCARE Alliance,

emergency communications, 911 or E-911.[27] The House bill would monitor surcharges "designated or presented as dedicated to deliver or improve E-911 services."[28]

Auditing and Compliance for State Use of 911 Funds. The primary tool in the Senate bill for ensuring that states do not misapply 911 funds is a process of audits and reports that would identify states not eligible for matching grants. Developing and administering this tool would be the responsibility of the FCC. The Senate bill instructs the FCC, semi-annually, to determine the relevant charges that are being levied in states and "political subdivisions of States"and audit the use of revenues thus obtained.[29] States would be required to certify annually to the FCC that 911 funds as designated in the bill have been used appropriately.[30] The bill's requirement for FCC audits at least every six months appears to be based on current FCC auditing requirements for "E-rate" funds,[31] and not on current accounting practices of state audits of 911 funds. Many state programs dispense money through counties and require only annual reports on expenditures, submitted after the end of a calendar year. The bill does not specify how the FCC would establish timetables to synchronize semi-annual audits, annual reports, and fiscal year federal grants programs. In determining which states are eligible for funds, the FCC could find itself in the role of arbitrator, not auditor. For example, is a state that borrowed 911 funds and repaid them within a year's reporting span disqualified from applying for a matching grant? What will be the status of states that diverted funds prior to the passage of a 911 bill? If the Senate's provision to include "political subdivisions" in the audit and reporting process becomes the law, what leeway might the FCC give to a state to take remedial action against a non-compliant subdivision, such as a county, in order to approve the state for program eligibility?

The House bill would rely on self-certification in requiring that applicants for matching grants certify annually that no revenue from E-911 surcharges — collected for "a State or other taxing jurisdiction within which the applicant is located" — has been applied to other purposes.[32] Certification is to be made to the NTIA/NHTSA. It is their administrators that would be responsible for determining if a state that has received a grant has diverted E-911 funds.[33] As with the Senate bill, the House bill does not address issues such as states that have diverted funds prior to the bill's passage as law, remedial action, or timetables. Presumably states that raided other 911 funds (not "E-911" funds) could also be disqualified by the NTIA/NHTSA, although the potential for a legal gray area and the possibility of litigation might

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[27] S. 1250, Section 6, Section 642 (a) (1) (A) (ii).

[28] H.R. 2898, Section 2, Section 158, (c) (1) (B).

[29] S. 1250, Section 6, Section 642 (a).

[30] S. 1250, Section 6, Section 642 (a) (2).

[31] The E-rate program and problems with auditing it are discussed in CRS Issue Brief IB98040, *Telecommunications Discounts for Schools and Libraries: the 'E-Rate' Program and Controversies*, by Angele A. Gilroy.

[32] H.R. 2898, Section 2, Section 158, (c) (2).

[33] H.R. 2898, Section 2, Section 158, (c) (2) and (3).

preclude such action. The September 30, 2003 letter from the Bush Administration points out that the bill does not specify the mechanism that would be used to determine non-compliance.

Penalties for States that Fail to Comply. The Senate bill would penalize states, and others, that have raided funds designated for any aspect of 911 communications by withholding grant money — up to twice the amount that was shown to be diverted — or by requiring repayment of the "appropriate" amount of funds already disbursed.[34] The House bill directs that a state or other entity that has falsely certified as to the use of E911 funds would be ineligible for current and future grants under the program and might be required to repay previous grants.[35]

Summary of S. 1250

S. 1250 was introduced by Senator Burns on June 12, 2003. The bill was reported out of the Committee on Commerce, Science, and Transportation on August 26, 2003, without amendment (S.Rept. 108-130).

Objective. The Senate bill's objective, as stated, and as reaffirmed under "Purposes," is to "improve, enhance, and promote the Nation's homeland security, public safety and citizen-activated emergency response capabilities through the use of enhanced 911 services. . ."[36] The bill seeks to upgrade the technical capability of PSAPs and to support "the construction and operation of a ubiquitous . . . system"[37] and to "facilitate . . . deployment . . . in a ubiquitous and reliable infrastructure."[38] By stating that 911 "should be available to all citizens,"[39] the bill seems to confirm what more and more members of the public safety community are saying about 911: for example, that the ability to make a 911 call is an entitlement and that provision of 911 services is a public good.[40] The Senate bill furthermore affirms the need for federal as well as state and local resources and coordination in the implementation of enhanced 911.[41] The major programs required by the bill would 1) create an Emergency Communications Task Force within the NTIA; 2) provide matching grants for emergency communications; and, 3) track telephone bill surcharges collected for states and communities to pay for emergency communications, 911, or E911, with the objective of discouraging the diversion of these monies for other purposes.

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[34] S. 1250, Section 6, Section 642 (c).

[35] H.R. 2898, Section 2, Section 158, (c) (4).

[36] S. 1250, Enacting Clause.

[37] S. 1250, Enacting Clause.

[38] S. 1250, Section 3 (2).

[39] S. 1250, Section (2) (1).

[40] For example, statements by representative of the National Emergency Number Association and the Association of Public-Safety Communications Officials International at an FCC-sponsored symposium on E911 coordination, April 29, 2003.

[41] S. 1250, Section (2) (1).

Role of Managing Partner. The Emergency Communications Task Force would "provide advice and recommendations . . . to improve coordination and communications between agencies and organizations involved in emergency communications, including 911 services to enhance homeland security and public safety."[42] An annual report would be submitted to Congress on Task Force activities and recommendations.[43] At least six federal agencies would be represented on the Task Force, including those such as DOT and the FCC that have 911 programs, and other agencies, such as the Departments of Justice and Homeland Security, that have programs covering emergency communications. Representatives from public safety and the telecommunications industry would also be included.[44]

Grants. Eligible projects would receive federal funding of no more than 50% of the cost.[45] Grants would be administered under the direction of the NTIA, in consultation with the Department of Homeland Security (DHS), according to criteria supplied by the Director of the NTIA.[46] The Senate bill directs the NTIA to give preference to applicants who coordinate with PSAPs and favor public-private partnerships in the "construction, delivery and improvement of emergency communications, including 911 services."[47] Grants could go to states, local governments, or tribal organizations for planning, infrastructure improvements, equipment purchases and personnel training and acquisition.[48] The Emergency Communications Task Force is not specifically designated to provide input into the establishment of criteria for eligibility or prioritizing the grants process.

The amount authorized for appropriations is not to exceed $500 million in any fiscal year; there is no sunset provision.[49]

Diversion of 911 Funds. The Communications Act of 1934 would be amended to provide for a semi-annual review of 911 funds collected by states and "political subdivisions of States," as well as for other auditing and reporting steps to be performed or administered by the FCC.[50] States that were found to have diverted funds originally collected to pay for emergency communications, 911 or enhanced 911 could lose federal matching grant funds and might be required to repay past grants.[51]

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[42] S. 1250, Section 4, Section 158 (b).

[43] S. 1250, Section 4, Section 158 (c).

[44] S. 1250, Section 4, Section 158 (a).

[45] S. 1250, Section 5, Section 159 (b).

[46] S. 1250, Section 5, Section 159 (a).

[47] S. 1250, Section 5, Section 159 (c).

[48] S. 1250, Section 5, Section 159 (a).

[49] S. 1250, Section 6, Section 642 (a).

[50] S. 1250, Section 6, Section 642 (a).

[51] S. 1250, Section 6, Section 642 (c).

Congressional Budget Office Cost Estimate for S. 1250

The cost estimate performed by the Congressional Budget Office (CBO) has two principal parts: the cost of providing the matching grants and the cost of auditing states and others that are collecting telephone bill surcharges for 911. CBO estimates that in FY2004, the NTIA would expend $208 million for administration and grant distributions, rising to $511 million in 2008. The CBO estimates that the FCC would spend $5 million a year on auditing and reporting functions. This estimate was based on information provided by the FCC. CBO states that the amount is sufficient to cover the cost of 50 auditors.

Summary of H.R. 2898

H.R. 2898 was introduced by Representative Shimkus on July 25, 2003. The bill was marked up and amended on September 23 by the Subcommittee on Telecommunications and the Internet and by the full Committee on Energy and Commerce on October 1 (H. Rept.108-311). On November 4, 2003, the House agreed to pass the bill, as amended, by voice vote.

Objective. The purpose of H.R. 2898, quoted in its entirety, is "To improve homeland security, public safety, and citizen activated emergency response through the use of enhanced 911 wireless services, and for other purposes."[52] The bill would encourage centralized planning for 911 by directing that grants go to entities that have a plan for wireless enhanced 911 administered by a single coordinating body.[53] Key provisions include 1) creating an E911 Implementation Coordination Office; 2) providing matching grants for wireless Phase II programs; 3) requiring certification from grants recipients that funds raised for E911 through surcharges to telephone customers have not been used for other purposes, with penalties for false certification; and 4) requiring a report from the FCC on the status or rural carriers in the provision of Phase II of E911 and the Phase II technologies that are the "most effective"[54] for these carriers.

Role of Managing Partner. The Coordination Office would be created by the Director (Assistant Secretary) of the NTIA and the Administrator of the NHTSA with the objective of facilitating coordination and communication among key stakeholders, as described in the bill.[55] The grant process and provision of matching funds would be specific responsibilities of the Office, although the Assistant Secretary and Administrator are directed to consult with the Secretary of Homeland Security and the Chairman of the FCC regarding grants.[56] Assistance in the preparation of plans, review of grant applications and the disbursement of funds are potential policy-making tools for the office.

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[52] H.R. 2898, Enacting Clause.

[53] H.R. 2898, Section 2, Section 158, (b) (3).

[54] H.R. 2898, Section 3 (8).

[55] H.R. 2898, Section 2, Section 158, (a) (1).

[56] H.R. 2898, Section 2, Section 158, (b) (1).

Grants. Eligible projects would receive federal funding of no more than 50% of the cost.[57] Grants would be administered through the Coordination Office, according to criteria supplied by the Director of the NTIA and the Administrator of the NHSTA.[58] These administrators would determine the grants in consultation with the Secretary of the Department of Homeland Security and the Chairman of the FCC.[59] States and other entities would be eligible as long as they meet stipulated eligibility requirements.

The amount authorized for appropriations is $100 million [60] for fiscal years 2004 to 2008.[61]

Diversion of 911 Funds. Applicants for grants would have to certify that funds collected as surcharges for enhanced 911 have been used for that purpose. Applicants who knowingly provide false information for certification would no longer be eligible for grants and might be required to return previous awards. Applicants would provide certification to the NTIA/NHTSA.[62]

Report on Tier III (Rural Areas). The FCC, to facilitate the administration of regulating implementation of E911 by wireless carriers, has applied separate and somewhat different oversight for carriers in Tiers I, and in Tiers II and III. Tier I carriers are the six largest carriers (Verizon, AT&T Wireless, Cingular, Sprint, Nextel, and T-Mobile) that collectively have about 75% of the wireless market nationwide. Tier III carriers in the context of E911 are rural wireless carriers whose primary markets are in sparsely-populated areas. Approximately 90 carriers that serve markets of no more than 500,000 are being considered for some form of relief from the FCC's E911 rules.[63]

Responding to testimony and other information placed before Congress regarding difficulties faced by Tier III carriers, H.R. 2898 would require a report from the FCC on Tier III carriers and their implementation of Phase II.[64] Most of the information required by the bill concerns the waiver process. To protect themselves from penalties for failure to meet the Phase I or Phase II requirements of the FCC, carriers must request a waiver. The report required by Congress from the FCC, on its administration of the waiver process for Tier III, is meant to help Congress

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[57] H.R. 2898, Section 2, Section 158, (b) (2).

[58] H.R. 2898, Section 2, Section 158, (b) (1).

[59] H.R. 2898, Section 2, Section 158, (b) (4).

[60] H.R. 2898, Section 2, Section 158, (d) (1).

[61] H.R. 2898, Section 2, Section 158, (d) (2).

[62] H.R. 2898, Section 2, Section 158, (c) (2).

[63] "FCC Creates Window for Smallest Wireless Carriers to Demonstrate Unique E911 Circumstances," October 10, 2003, at [http://www.fcc.gov/911/enhanced/releases.html#nr]. (Viewed June 17, 2004.)

[64] H.R. 2898, Section 3.

evaluate, among other things, whether the FCC is doing an "adequate job"[65] in assessing the deployment of E911 in rural areas. The clause also asks for a discussion of the technologies that are the most effective for deploying Phase II in rural areas.[66] On November 18, 203, the FCC denied a "Petition for Forbearance" from E911 accuracy requirements filed by 12 Tier III carriers.[67]

Congressional Budget Office Cost Estimate for H.R. 2898

The Congressional Budget Office estimates that the cost to the NTIA of administering the grants program and fulfilling other responsibilities would be $7 million annually. On the assumption that appropriations are made for the program, CBO places the cost of the House 911 program at $45 million in 2004 and $453 million over 2004-2008.

Background on Key Issues

Legislation, Regulation and Federal Programs. The two federal agencies with significant involvement in 911 currently are the FCC and DOT. The NTIA has limited expertise in E911 but it has some programs that deal with federal-state-local cooperation and, under the Office of Telecommunications and Information Applications, with grant-making. Typically the NTIA deals with federal use of telecommunications and the FCC with private sector and non-federal government use.

NTIA. The NTIA was established, first by Executive Order and then by statute,[68] to provide a voice for the Executive Branch in the administration of spectrum and telecommunications policy. It is a bureau of the Department of Commerce. Outside the federal arena, the NTIA interacts primarily with state and local emergency communications in matters regarding spectrum. It is active in public safety programs for interoperability and integrated emergency communications systems. The NTIA administers two grants programs: one to assist states and communities with telecommunications and information technology; and one that has gone primarily to fund digital technology for public television broadcasting.

FCC. The FCC, an independent agency, is empowered primarily through the Communications Act of 1934. The FCC has typically been the agency Congress relies on to provide oversight and leadership for telecommunications activities, especially as regards consumer protection and public safety. The FCC was designated by Congress in 1999 to fulfill this role in the deployment of 911.

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[65] Statement by Rep. Shimkus at the Committee of Energy and Commerce mark up of H.R. 2898, October 1, 2003.

[66] H.R. 2898, Section 3 (8).

[67] Rulings can be found by going to the FCC Electronic Document Management System (EDOCS) on the FCC website [http://www.fcc.gov] under E-Filing. To search in EDOCS insert 03-297 in the box marked "FCC."

[68] USC Title 47, Chapter 8, "National Telecommunications and Information Administration."

The passage of the Wireless Communications and Public Safety Act of 1999 (P.L.106-81) confirmed the support of Congress for nationwide implementation of emergency call services. The law mandated 911 as the universal emergency assistance number and encouraged the deployment of enhanced 911 services. The law states (emphasis added): "***The Federal Communications Commission shall encourage and support efforts by States to deploy*** comprehensive end-to-end emergency communications infrastructure and programs, based on ***coordinated statewide plans, including seamless, ubiquitous, reliable wireless telecommunications networks and enhanced wireless 9-1-1 service***. In encouraging and supporting that deployment, the Commission shall ***consult and cooperate with State and local officials*** responsible for emergency services and public safety, the telecommunications industry (specifically including the cellular and other wireless telecommunications service providers), the motor vehicle manufacturing industry, emergency medical service providers and emergency dispatch providers, transportation officials, special 9-1-1 districts, public safety, fire service and law enforcement officials, consumer groups, and hospital emergency and trauma care personnel (including emergency physicians, trauma surgeons, and nurses). The Commission shall encourage each State to develop and implement coordinated statewide deployment plans, through an entity designated by the governor, and to include representatives of the foregoing organizations and entities in development and implementation of such plans." [69]

The FCC's efforts both before and after passage of the act have focused on developing performance standards for location-identification technology and mandating compliance by wireless carriers with these and other requirements. Faced with delays and technical problems, in 2002 the FCC requested a study on wireless E-911 implementation. The study it commissioned, known as the Hatfield Report[70] after its author, made several policy recommendations and observations that are reflected in the two bills on 911 introduced in the 108th Congress. The Hatfield Report recognized the need for federal leadership — a "champion" — in implementing 911 and the role of 911 in homeland security. The Report recommended that the FCC encourage the establishment of a "National 911 Program Office" within DHS. In testimony before a Congressional hearing on June 4, 2003[71] Mr. Hatfield explained that the important point of the recommendation was that there be federal leadership at the Department level. The Hatfield Report also confirmed other studies' findings about difficulties faced by PSAPs.[72] These problems were described in detail at the House June 4 hearing and were also the discussion of an

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[69] P.L. 106-81 Sec. 3 (b)

[70] Released October 15, 2002; see footnote 4.

[71] Committee on Energy and Commerce, Subcommittee on Telecommunications and the Internet, June 4, 2003 hearing, "Wireless E-911 Implementation: Progress & Remaining Hurdles."

[72] For example, "NENA 9-1-1: Report Card to the Nation," published by the National Emergency Number Association [http://www.nena.org/Initiatives/RCN/RCN.htm] (viewed June17, 2004) and CRS Report RS21222, *Implementing Wireless Enhanced 911: Issues for Public Safety Answering Points (PSAPs)*.

earlier Senate hearing.[73] The Hatfield Report, and subsequent testimony by Mr. Hatfield, stressed the need for coordination among all stakeholders in planning and implementing wireless enhanced 911 technology and services.

The FCC has responded to the Hatfield Report with several new initiatives to bolster its role in supporting 911. These include creating an Enhanced 911 (E911) Coordination Initiative to bring together relevant stakeholders to foster cooperation and coordination. The first meeting was held on April 29, 2003. For a second meeting, on October 29-30, the FCC collaborated with the National Governors Association in an effort to include 911 representatives designated by each state and territory. The FCC has also announced the creation of a 911 subcommittee for the National Reliability and Interoperability Council (NRIC), a Federal Advisory Committee that provides best practices and other guidelines for telecommunications operations, including homeland security and public safety. The 911 subcommittee will focus on technical issues regarding network architecture and standards. A key priority will be to measure and improve the accuracy of location information for wireless calls to 911.[74] FCC Chairman Michael Powell reaffirmed his and the FCC's commitment to improving location technology at the Third Wireless E911 Coordination Initiative meeting, April 27-28, 2004.

Universal Service Administration Company. The FCC has oversight responsibility for the Universal Service Administration Company (USAC) which receives funds from the Universal Service Fund. Although not a grant-making organization, USAC does receive applications from potential recipients and determines how to provide subsidies for the benefit of designated groups such as schools and libraries (E-Rate), rural health care agencies, telecommunications companies, and low-income individuals.

DOT. The Department of Transportation (DOT) has recently become active in encouraging the deployment of wireless E911. DOT has linked support of 911 and wireless 911 to aspects of its highway programs since 1969. In April 2002, Transportation Secretary Norman Y. Mineta convened a Wireless E9-1-1 Stakeholder Summit that led to the formation of a Steering Council of representatives of many of the national stakeholder groups concerned with 911 issues. The Steering Council established a Priority Action Plan to address six of the most urgent priorities for the implementation of wireless E911; these are:

- Support for statewide coordination
- Support for stakeholders in order to facilitate coordination
- Examination of cost recovery and funding plans at the state level
- Knowledge transfer and outreach programs
- Coordinated deployment in both rural and urban areas

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[73] Committee on Commerce, Science and Transportation, Subcommittee on Communications, March 5, 2003 hearing, "E911 Implementation."

[74] Remarks of Michael K. Powell, Chairman, Federal Communications Commission, before the Association of Public-Safety Communications Officials International, August 11, 2003. [http://www.fcc.gov/commissioners/powell/mkp_speeches_2003.html]. (Viewed June 17, 2004.)

- Model location program

The National Highway Traffic Safety Administration (NHTSA) represents DOT in support of 911 projects with the Association of Public-Safety Communications Officials International (APCO), the National Emergency Number Association (NENA), and the National Association of State 9-1-1 Administrators. The Public Safety Foundation of America, formed by APCO, is not a DOT initiative but the member organizations of the foundation's Advisory Committee are also represented on the DOT Steering Council. In 2003, the foundation gave over 50 grants totaling over $3 million for 911 deployment, ranging from $5,489 to the Olmstead Township Police Department (Ohio) to $500,000 for the Anchorage Police Department. Grants can be for Phase I and/or Phase II, for planning, for strategic technology deployment and for education.[75]

Congress. Congressional response to the Hatfield Report and other public statements and reports included the creation of the 911 Caucus and introduction of bills on 911 by the joint co-chairs.[76] At the request of Senator Burns, the GAO conducted a study on wireless E-911 implementation. The results of that study were released in a GAO report entitled "Uneven Implementation of Wireless Enhanced 911 Raises Prospects of Piecemeal Availability for Years to Come."[77] The sole recommendation of the report was that the "Department of Transportation work with state officials and public safety groups to develop data identifying which PSAPs will need to have E911 equipment upgrades."

Implementation: Phase I and Phase II. For regulatory purposes, the FCC divided wireless E911 implementation into two phases. Phase I covers the implementation of call-back number identification and generalized location information. Phase II requires more specific location information. Wireless carriers were expected to provide Phase I capability to PSAPs in a short period of time; provision of Phase II had a longer timetable for the carriers.

There is no FCC deadline for PSAP program implementation. Many PSAPs are installing integrated wireless enhanced 911 call management systems that handle both number identification and location information. Some PSAPS, especially those with inadequate funding, have postponed equipment purchases until both Phase I and Phase II services are available from all of their telecommunications providers. For this and other reasons, it is estimated that 40% of PSAPs nationwide have Phase I capability, while some states have no Phase I capability. In 2002, California, for example, is recorded as having Phase I in 3.45% of its counties, Pennsylvania in 9.86%, Ohio in 9.09%. At the other end of the range, Texas had Phase I in 93.55% of counties,

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[75] A recently published report documents DOT activities and those of other organizations. See " Priority Action Plan" at [http://www.itspublicsafety.net/wireless_action.htm]. (Viewed June 17, 2004.)

[76] Sens. Burns and Clinton and Reps. Shimkus and Eshoo.

[77] GAO-04-05, November 2003.

Tennessee in 88.89%, Michigan in 86.67% and Louisiana in 60.94%.[78] These statistics refer to counties, not PSAPs. At least 10% of 6,121 PSAPs counted by NENA have implemented Phase II.[79]

NENA describes implementation of wireless 911 as three phases: the first phase being the acceptance of both wireless and wireline calls, and the second and third phases corresponding to Phases I and II.[80] Requirements for Phase II promulgated by the FCC, however, cover location accuracy for the telecommunications technologies used by wireless carriers[81] and are not fully applicable to PSAPs. Regulation of Phase II for wireless carriers sets location-accuracy requirements that depend on the type of technology used by the carrier. Implementation of Phase II for PSAPs includes steps such as: negotiating with the carrier operating the landline switch that serves the PSAP, installing hardware and software to receive location information, installing mapping technology, training personnel, and negotiating with other participants (notably Emergency Medical Services and hospitals) for end-to-end information transfer.[82] Furthermore, PSAPs have discovered that they need additional technology to determine the accuracy of the location information they receive, since this is a function of the technology used for the cell tower that transmits the 911 call.

Location Technology. Identifying the location of a cell phone is a comparatively new technology. Most location identification technology is digital. However, in the United States, 12% of mobile phone subscribers have analog-only phones,[83] creating an additional challenge to developing effective location technology. Because some areas of the United States (such as rural areas, wilderness areas and parkland) are served only by analog technology, many of the cell phones sold in the United States are dual mode. "Mode" refers to the type of transmission technology and a dual mode phone will work with both analog and digital service. Some telecommunications systems, such as automotive telematics,[84] depend on analog technology to ensure complete coverage of the United States. The difference in digital

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[78] Information from a survey conducted by NENA and DOT from March to September 2002 at [http://nena.ddti.net/Reports/]. (Viewed June 17, 2004.)

[79] Testimony of John B. Muleta, Committee on Energy and Commerce, Subcommittee on Telecommunications and the Internet, September 11, 2003 hearing, "H.R. 2898, The E-911 Implementation Act of 2003."

[80] At [http://www.nena9-1-1.org/Wireless911/Overview.htm#Wireless 9-1-1 Requirements]. (Viewed June 17, 2004.)

[81] Described in 47 CFR 20.18.

[82] Montgomery County, Maryland, for example, is implementing E911 as part of a Public Safety Data System, an end-to-end upgrade of its emergency communications infrastructure. "Maryland county gets ready for enhanced 911 service," September 15, 2003, PostNewsweek Tech Media at [http://www.gcn.com/vol1_no1/daily-updates/23526-1.html]. (Viewed June 17, 2004.)

[83] "FCC Adopts Annual Report on State of Competition in the Wireless Industry," FCC News, June 26, 2003 at [http://www.fcc.gov] under "Headlines,"

[84] Currently offered as a subscriber service to owners of luxury cars, telematics combines wireless and location-based technologies to provide customer and emergency support from private call centers. Telematics is considered an Intelligent Transportation System (ITS).

and analog transmission technologies causes gaps in the potential effectiveness of E911 coverage because they do not mesh seamlessly.

In addition to the different transmission modes for analog and digital technology, there are four major digital standards[85] generally used in the United States today, and at least as many competing standards for the next generations of technology (Third Generation, or 3G, and future technologies). As a consequence, the FCC location requirements are linked to specific standards and technologies that are not interoperable. A carrier is compliant with FCC accuracy requirements if it meets standards for its own system. This means that a call to 911 placed on a Phase II-compliant CDMA phone that is picked up by a Phase II-compliant TDMA cell tower will be delivered to the designated PSAP with Phase I information, the default as regulated by the FCC. Alternatively, the CDMA call might be routed through a distant CDMA cell tower, delivering the call to a designated PSAP that may be in the next state and a hundred or more miles away from the caller. The Global Positioning System (GPS) technology that uses satellites to provide precise location information can be incorporated into handsets as one approach to meeting FCC requirements but GPS is not at present interoperable across all location-identification technologies. Since Phase II deployment is still in the early stages, it may be some time before it will be possible to measure the extent to which incompatible standards cause accurate location information to be dropped from a 911 call.[86] However, until solutions are found and implemented that assure full interoperability and compatibility, 100% compliance with Phase II by wireless carriers will not be the same as 100% provision of wireless E911 location technology to PSAPs.

Other areas where location technology needs to be further developed in order to provide ubiquitous 911 coverage include voice-over-Internet (VoIP), calls made by devices used by the hearing-impaired, telematics, and data-only messages.

Location Technology and Rural Areas. Rural areas face a number of problems in the implementation of wireless E911. Rural wireless carriers are often disproportionately affected by the anomalies of location technology. Rural PSAPs are handicapped in their ability to move to Phase II technology for reasons such as lack of funds and insufficient digital infrastructure. Rural areas tend to have a low population base and significant interstate highway traffic and these factors combine to place disproportionate demands on local PSAPs.

Wireless carriers face specific problems in implementing Phase II location-finding technology in rural areas. These include the use of analog as opposed to digital cellular services; the cost of installing a sufficient number of cell towers to provide triangulation for location technologies; and the predominance of cell towers

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[85] Known by their acronyms, they are GSM, iDEN, TDMA and CDMA.

[86] A Consumer Reports survey conducted in Fall 2002 regarding 911 calls placed on wireless phones found that 15% of callers had trouble connecting and 4% were unable to complete the call. Consumer Reports, February 2003, Vol. 68, No. 2, page 12.

placed along major highways,[87] also a complication for proper triangulation. FCC rules permit a wireless carrier to meet location-accuracy requirements by averaging location performance systemwide. For a variety of reasons, location identification in urban areas provides a much greater degree of accuracy than for rural areas. Carriers that specialize in meeting the niche market needs of rural customers do not have the option of averaging their system's accuracy with better-performing data from urban areas. Many are struggling to meet the FCC's requirements for accuracy in location identification, even though they are providing the same level of accuracy in rural areas as the national carriers.[88]

Diversion of 911 Funds. The bulk of the costs for implementing wireless E911 is covered by the telecommunications industry and by consumers, primarily as taxpayers at the state and local level but potentially also as purchasers of wireless handsets and subscriber services, since some of the carriers' costs for E911 technology may be passed along as price increases. One common source of funds is a surcharge on telephone bills collected at the local or state level, or both. Most states have some form of 911 fund that receives revenue from a surcharge on telephone bills.[89] Another source at the local or county level is an increase in property taxes with the additional monies going to an E911 fund. Some capital programs have been funded through municipal or state bonds, or bake sales and fish fries. One PSAP mortgaged the building that houses its call center to raise the funds to upgrade to E911. Annual operating costs for PSAPs tend to increase at a rate well above inflation, in part because of increased charges from local switches seeking to recover their E911 investments; these incremental costs might be met by the local annual budget instead of a 911 fund.[90]

According to the Cellular Telecommunications & Internet Association (CTIA), of the 18 states known to have wireless E911 programs funded at the state level, nine have transferred these funds to a general fund in recent years. There is little other concrete data on the subject but there have been reports of other states that are raiding 911 funds. Conversely, states have also voted extra funding from general budgets in order to meet E911 goals. Virginia and Maryland, two of the states identified as treating 911 funds as general revenue, have also used general budget money to pay for E911 infrastructure.

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[87] Sometimes referred to as a "string of pearls" because of the placement of cell towers in a continuous line.

[88] See comments, Tier III Coalition for Wireless E911, December 3, 2002, on the FCC Electronic Comment Filing System (ECFS), proceeding "02-46" at [http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6513390405]. (Viewed June 17, 2004.)

[89] An overview of surcharges, by state, is available on the NENA website at [http://www.nena.org/dot/index.htm] under "9-1-1 Surcharges." (Viewed June 17, 2004.)

[90] Information obtained by CRS through a series of telephone conversations ongoing since December 2001. Telephone sources include emergency communications managers in Hawaii, Massachusetts, Michigan, New York, Ohio, Rhode Island, South Carolina, South Dakota and Virginia.

The following table was prepared in early 2003 and is not comprehensive. California, for example, borrowed $63.1 million from its 911 fund in 2003. The fund collects about $130 million a year. Reportedly, California plans to phase in wireless E911 as more consumers switch to new phones with "GPS-based systems" and will not need to apply for a federal grant in order to fund the process.[91] On a smaller scale, the Maine Legislature voted to transfer $123,301 to the 2003 General Fund from the state's Emergency Services Communication Bureau's E-911 Fund.[92]

E911 Funds Diverted to General Funding

State	Amount(s)	Year(s)
California	$50 million	2001
District of Columbia	$9.45 million over three years	2000-2003
Maryland	$1 million	2002
North Carolina	$2.5 million; $5 million	2001; 2002
New York	$45 million; $162 million	2001; 1991-2000
Oregon	$7 million	2002
South Carolina	$5 million	2003
Texas	$40 million	2001
Virginia	$30 million	2002

Source: CTIA, March 2003

Public Policy and Citizen-Activated Emergency Communications

The 911 bills propose solutions that could offer leadership capable of combining technical proficiency and vision at the macro policy level and could provide funding for grants that can be used to reinforce policy decisions.

Technology Policy and Vision. The federal managing partner that provides leadership for 911 must understand current 911 technology — both its potential and its limitations — and where 911 call centers fit into a broader national policy for emergency communications and citizen-activated calls for assistance.

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[91] Epstein, Edward, "911 Cell Phone Plan Gets a Push," San Francisco Chronicle, August 11, 2003, page A4.

[92] Maine 2003 Legislative Service, 121th Legislature, 2003 Me. Legis. Serv. Ch. 2 (H.P. 372) (L.D. 483) (WEST), Sec. AA-3, West Group 2003.

With the formation of a technical subcommittee to pursue issues raised in the Hatfield Report and by others, the FCC has tacitly acknowledged that there is still much to be done in developing E911 technology for wireless calls. Examples of technical issues still ahead include better coverage in rural areas, an E911 interface for the different types of cell phone standards and technologies, better procedures for back-up, database expansion and integration, system digitization, development of a network backbone and improved capacity to avoid dropped calls. Some of these will be looked at by the FCC, some by DOT, and some by associations such as NENA.[93]

The managing partner for 911 may also want to use its position in support of citizen-activated calls for help to include 211 call centers. The 211 dialing code is reserved by the FCC on a provisional basis as a universal number for community information and referral.[94] The 211 call centers support a variety of social service hot lines and can also be used to provide information and guidance in emergency situations. On September 17, 2003 companion bills were introduced in the House (H.R. 3111, Representative Burr) and Senate (S. 1630, Senator Clinton) to facilitate nationwide availability of 211. The bills recognize the potential role of 211 call centers in providing "community preparedness and response."[95] A grants program would be administered by the Department of Commerce. Applicants would have to include information about cooperation, if any, with other call centers, including 911. Some public safety associations[96] envision robust emergency communications systems that link first responders and health facilities with emergency call centers that are linked to all-hazard warning systems. Call centers are identified as a pivotal link in an end-to-end network of emergency communications, information, response, and post-incident care. A report by the Wireless Emergency Response Team (WERT) discusses the valuable service provided to victims of the World Trade Center attack through a call center provided by BellSouth.[97] The report urges that national planning for emergency preparedness and response include the mobilization of private-sector call centers to field calls for information and assistance for non-life-threatening needs.[98] A bill introduced by Representative Meek of Florida (H.R. 2250) proposes using the resources of the "national private sector networks" of call centers to provide telephoned warnings as an emergency alert system. The system, dubbed READICall for Responsive Emergency Alert and Dissemination of Information Call, would set up procedures to initiate an emergency alert call to every telephone subscriber.

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[93] NENA, "Future E 9-1-1 & Emergency Telecommunications Evolution: Technical Future Pah Plan Concept" [http://www.nena9-1-1.org/9-1-1TechStandards/future_path_plan.htm]. (Viewed June 17, 2004.)

[94] More information is on the FCC website at Consumer and Governmental Affairs Bureau, Consumer Alerts and Fact Sheets, [http://www.fcc.gov/cgb/consumerfacts/211.html]. (Viewed June 17, 2004.)

[95] S. 1630, Section 2 (9) and H.R. 3111, Section 2 (9).

[96] For example, NENA, the ComCARE Alliance and the Partnership for Public Warning.

[97] Wireless Emergency Response Team (WERT), Final Report for the September 11, 2001 New York City World Trade Center Terrorist Attack, October 2001, Section 3.14, page18, at [http://www.nric.org/meetings/docs/wert_final_report.pdf] (viewed June17, 2004).

[98] *ibid.*, Section 1, Recommendation PCC-2, page 9 and Section 6, Public Call Center, page 40 *et seq.*

Leadership. Regarding the legislation discussed here, there are four proposals for providing leadership in connection with funding for 911 grants. These each provide different roles for federal leadership, formulating and directing 911 and emergency communications policy, and for the use of funds to influence policy decisions.

- A Task Force to guide the nation toward ubiquitous 911 would be comprised of specific government agencies and representatives of 911 stakeholders; broad-based funding would be provided under the direction of the NTIA, in consultation with DHS; draft legislation would provide no direct connection between policy-making and funding. Authorized funding of up to $500 million a year. (Senate bill.)

- A Coordination Council would be jointly created by the NTIA and NHTSA to support wireless E911; targeted funding for Phase II would favor state planning and control; Coordination Council would have a role in funding but criteria are to be established by NTIA/NHTSA and administered in consultation with DHS and the FCC; NTIA/NHTSA would have the key role in policy and funding. Authorized funding of up to $100 million annually until October 1, 2008. (House bill.)

- A Joint Program Office would share responsibility between the Departments of Commerce and Transportation, with the program residing in NHTSA; there would be consultation with the Departments of Homeland Security and Justice and the FCC; funding from existing programs would be "leveraged" by Joint Program; there is no indication of criteria for eligibility or of dollar amounts to be designated for E911. Joint Program would be in effect for three years. (Administration proposal.)

- A National Coordinating Office would build a "coordinating body and expertise within the federal government" to focus resources and leadership on deploying 911 technologies. Grant authority would be permanent and would be used to advance important objectives for the deployment of 911, such as standards. Grants would be for all aspects of 911 implementation, including supporting the development of 911 technology for emerging technologies such as Voice Over Internet Protocol. (NENA.)[99]

There are several options for shaping the leadership of a national 911 initiative in the above proposed courses. For example, only the House bill has language that clearly connects the 911 program leadership to the use of funding decisions as a tool to direct policy. The Bush Administration proposal is the only one that identifies any federal program for E911 deployment, in this case the ones coordinated under the

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[99] "Discussion of Required Concepts and Agendas for Congressional 9-1-1 Legislation," available from Stephen R. Seitz, Director of Government Affairs, NENA, sseitz@nena.org.

direction of DOT. It would build on recent initiatives by DOT/NHTSA, but suggests that further study might be needed. Although the FCC could be involved through a Task Force or as a consultant for funding, no guidance is provided by any of the three plans as to how to incorporate the existing 911 programs of the FCC into a new 911 program.

A blended approach has been suggested that would combine elements of the three proposals summarized above and bring the FCC more directly into the decision-making mainstream. A National Coordinating Office that resides at NHTSA would benefit from the momentum and goodwill built by DOT over the last year. For example, the DOT Steering Council provides the type of wide representation of stakeholders sought by S. 1250 in its Task Force. The FCC might be a third partner in a National Coordinating Office. It could bring to the effort a number of useful resources and regulatory clout with the wireless carriers. It has a base of technical proficiency that could be put to good use in a common policy initiative. The FCC has announced two programs that, if successfully implemented, will draw on resources of state governments and the private sector. The FCC-sponsored meeting on October 29-30, 2003 brought together some key stakeholders, including a number representing state governments. The formation of an E911 subcommittee as part of the National Reliability and Interoperability Council (NRIC) to develop best practices and other guidelines represents a significant level of private-public cooperation and commitment of resources. Using a National Coordinating Office to harness the FCC's role as regulator could assist E911 policy-making both by providing a new source of input into FCC regulatory decisions as well as benefitting from the agency's regulatory authority. Furthermore, it could be counter-productive if the FCC continued its non-regulatory activities in E911 as a parallel but separate effort. The goal of greater cooperation and coordination at the state level could be weakened if there is one program directed by the FCC and another by the NTIA or NTIA/NHTSA.

Funding. Both the House and Senate bills plan for a matching grants program exclusively for 911. The Bush Administration believes such an approach would be a duplication of efforts and lists several programs as possible candidates for funding E911. Grants programs at the Departments of Homeland Security and Justice mentioned as possible alternatives are themselves at the center of debate on proposals to restructure funding to first responders.[100] Unless the Administration's proposed E-911 National Coordinating Office were given a muscular role in Homeland Security or Justice grants programs, funding goals that might be used to shape E911 policy could be submerged by the larger programs and their goals. An example for "leveraging" existing grants programs, provided by the Administration, would be to add "911 upgrades" to the Allowable Equipment list for Interoperable Communications Equipment in the State Homeland Security Grant Program administered by the Office of Domestic Preparedness (ODP). This program requires that 80% of funds must go to local communities. What modifications might have to be made to the Program's rules to accommodate the bills' intent of "enhancing emergency communications services through planning, infrastructure improvements, equipment purchases, and personnel training and acquisition"(language in both

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[100] See CRS Report RL31475, *First Responder Initiative: Policy Issues and Options*, by Ben Canada.

bills)[101] or to fund a state-operated 911 program? Would ODP be able to make those changes? The Administration in its letter to Congress also suggests that some programs at the Department of Justice (DOJ) are "sufficiently broad" and might "conceivably" be used to help fund 911. Conceivably this could happen, especially if additional funds are provided; most of the monies presently distributed through DOJ are either earmarked or used to fund ongoing programs that would have to be cut to accommodate 911 expenditures.

NHTSA could be a good candidate to administer an E911 grants program for an initial period (such as the three years suggested by the Bush Administration for a Joint Program Office). If NHTSA were to administer such a program, the link between technical expertise and financial power could be strong and effective. Paired with NHTSA efforts to include EMS in 911 planning, a vision of strong support for 911 could have some clout. DOT also has the policy tool of highway funds to guide state behavior regarding E911. The NTIA, on the other hand, has the background and experience in telecommunications networks to provide leadership for the longer term. It, or its successor, might be the best choice to manage a 911 program that meets some of Congress' goals, as outlined in the proposed S. 1250, and also in P.L 106-81.

Role of Federal Policy. Placing 911 within another funding program that does not have emergency call centers as its focus could eliminate the possibility of creating a federal policy for communications between citizens and emergency personnel. A question for a policy decision is raised: Is a separate funding program — used as an incentive to implement policy — necessary? Another policy question concerns the scope of the language of the bills: Does Congress want specifically to allow financial support for national or regional programs? Many consider these as important as those at the state and local level. Areas where federal leadership at the national or regional level has been recommended for E911, by a variety of groups, include standardization of the "product" (the management of the emergency call); training; consumer education; location mapping; replacement of analog technology with digital technology; upgrading of digital capabilities to handle all types of message formats (Internet, short message service, pagers, other); back-up call centers; network backbones; international agreements covering 911 calls that cross borders; and greater end-to-end connectivity among all types of emergency services. *The 9/11 Commission Report*[102] writes of the often inadequate response of the 911 call centers serving New York City.[103] The analysis of the 911 response recommends: "In planning for future disasters, it is important to integrate those taking 911 calls into the emergency response team and to involve them in providing up-to-date information and assistance to the public."[104]

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[101] S. 1250, Section 5, Section 159 (a) and H.R. 2898, Section 2, Section 158 (b) (1).

[102] Final Report of the National Commission on Terrorist Attacks Upon the United States, Official Government Edition, 2004.

[103] *Op. cit.*, pp. 286-287;295; 306.

[104] *Op cit.*, p. 318.