

**Remarks of FCC Commissioner Michael O’Rielly
Before the Rhode Island E911 Summit
Providence, Rhode Island
March 19, 2018**

Thank you for that very kind introduction. I come to you from Washington, D.C. where there is a little less snow, it’s a little bit warmer, and the people are recovering from Saint Patrick’s Day weekend!

For those of you who may be unfamiliar, the Federal Communications Commission (FCC) is an independent Federal agency consisting of five individuals who are charged with overseeing the communications industry and protecting consumers. While each of us has a different background and we sometimes disagree on policy matters, we tend to align very closely when the subject turns to the safety of the American public. Know that my good friend, Chairman Pai, has spoken loudly against the insidious practice of 9-1-1 fee diversion. Similarly, my colleague, Commissioner Rosenworcel, who would have liked to be here but was unable to make it, has been such a great partner in seeking to end fee diversion, including joining me on a recent op-ed on the topic, which many of you have seen.

On a larger note, I must admit that I have some mixed emotions about being with you all tonight. Let me thank Rhode Island State Representative Lancia of Cranston for the kind invitation. It is certainly a real honor to join with so many state and local representatives, public safety officials, and members of the community on a brisk night to hear views on this important topic. At the same time, it is unfortunate that we must be here in the first place to discuss the appalling practice by certain states to divert critical 9-1-1 fees for tangential or totally unrelated purposes. Given the circumstances, be here we must.

It makes it incumbent upon us to use this event to share information, listen to each other, and determine next steps to improve the situation whether here in Rhode Island or elsewhere across our great nation. I want to be clear that while I may be very passionate about this topic, this should in no way be interpreted as a suggestion that you influence or lobby your Federal or state governmental officials on the issue. Beyond being prohibited by law from doing so, my purpose or goal is not to generate grassroots activity. Instead, I seek to learn what conditions in Rhode Island made fee diversion a viable option for policymakers. For instance, with a state budget of \$9.3 billion, why is it necessary to divert a rather small amount – between \$8 to \$10 million – dedicated for public safety call centers and the 9-1-1 system to other spending priorities?

The FCC’s role in examining and reporting state 9-1-1 diversion efforts did not come out of the blue. We appropriately act in response to requirements in law enacted by the U.S. Congress via passage of the New and Emerging Technologies 911 Improvement Act of 2008, otherwise known as the NET 911 Act. As such, we have an obligation to call out states that are effectively stealing needed funds from public safety to be used for other purposes. A name and shame, if you will.

Since the Commission’s initial report in 2009 and every year since, we have documented and publicly reported the 9-1-1 fee diversion practices of states. In fairness, the Commission allows states to self-report whether it is diverting 9-1-1 funds, so it is not inconceivable that some states aren’t fully honest in our data collection process. The reality is quite possibly much worse than what shows on the printed paper.

Despite this, the Commission's findings over the years paint a very disturbing picture. Over the last nine years, 21 states and one territory have self-reported diverting 9-1-1 funds to other purposes for one year or more. Just as troubling, ten states, six territories and the District of Columbia failed to submit information to the Commission at least once. Collectively, 31 states, territories or districts have either diverted funds or failed to timely report to the Commission. Thirty-one states, territories, and the district! Our 2017 report showed that five states diverted almost \$130 million intended for 9-1-1 funding and another seven states and territories completely failed to submit the information needed for the FCC to make a determination. Many of you will not be surprised to learn that Rhode Island is the second largest diverting state in terms of overall amount and percentage, behind only New Jersey. In fact, according to our 2017 report, Rhode Island diverted 60 percent of the 9-1-1 fees it collected, or more than \$8 million.

I know that some states and territories will try to make the argument that their diversion should not count because they spent the diverted monies on other "public safety" purposes. But that is not acceptable. Diversion is diversion, even if some believe it goes to meritorious functions. Allowing other functions to be shoe-horned under the guise of 9-1-1 is deceptive to those paying the fees, American communications users. They should rightly expect that dedicated fees for 9-1-1 actually go to the intended purpose. It is not appropriate for states to creatively label certain spending as public safety related and use their 9-1-1 accounts as payfors. In Rhode Island's case, there is not even an argument that these diverted funds go for other public safety purposes. All 60 percent is funneled to the state's General Funds.

Other states or territories will try to counter that it really doesn't matter if a portion of 9-1-1 funds are diverted because enough funds are still being provided to the calling centers and underlying network. That's what Rhode Island officials seem to be saying in response to its diversion tactics. But, this too, is flatly wrong. Beyond the enormous deception being perpetrated, it's highly likely that the public safety systems are not receiving the funding that they need to operate or migrate to next generation, or NG9-1-1, systems. The WJAR/NBC10 exposed the problems facing Rhode Island's public call center here in Providence. Underfunding has led to longer wait times, delayed emergency responses, worker fatigue and lower morale, and an inability to invest in new systems, just to name a few.

Further, I just came from your local PSAP here in Providence. A number of issues identified by WJAR seem very legitimate.

At this point, I think it is important to discuss potential solutions. Over the last year, I have proposed a few ideas to curtail states' 9-1-1 diversion tactics. One idea that seems to accomplish the overall goal without potential negative consequences involves two steps to be taken by the FCC. The first is defining what features and functions can be recouped via a state 9-1-1 fund. The second is using our Truth in Billing oversight, preventing providers from being allowed to collect 9-1-1 fees if they are diverting and, therefore, remit to a state any more funding than is necessary to operate the state's 9-1-1 obligations. Combining these two features would be a way to effectuate change without impinging upon the funding desperately needed by 9-1-1 call centers.

In closing, let me remind everyone that we shouldn't have to fight to make sure 9-1-1 funding goes for the purposes it was intended. We shouldn't have to highlight the budgetary shenanigans perpetrated by several states that raid their 9-1-1 accounts. And we shouldn't have to explain the increased risk that this behavior exposes the American public to, especially in some of their worst moments in life. Yet, current circumstances dictate otherwise. Once we accept our reality, I see our role as fully recognizing

the problem at hand, defining a tailored solution, and implementing it. America's public safety depends on it.