Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
911 Call-Forwarding Requirements for Non-Service-Initialized Phones	)	PS Docket No. 08-51
	)	

Comments of the

National Association of State 911 Administrators

The National Association of State 911 Administrators (NASNA) represents state 911 programs in the field of emergency communications. Established in 1994 as a 501(c)(3) non-profit organization, NASNA is the voice of the states on public policy issues impacting 911. NASNA members believe that state 911 leaders' expertise can assist industry associations, public policymakers, the private sector, and emergency communications professionals at all levels of government as they address complex issues surrounding the evolution of emergency communications.

The comments submitted below are based upon a consensus of our membership and their collective experience with the provisioning of 911 services.[1]

NASNA is pleased that the Commission has addressed this issue. In 2013, NASNA's response to the *Notice of Inquiry* was to keep the Non-Service Initialized (NSI) rules in place, because the public had come to rely on being able to use them in an emergency and because some 911 calls from NSI devices were legitimate. At this time, NASNA supports sunsetting the rule if it can be done in a way that (1) does not harm elderly individuals who have purchased 911-only phones and those who cannot afford existing low-cost alternatives, and (2) continues to forward 911 calls made in circumstances where a service-initialized device appears to be a NSI device to a CMRS provider's network, as described in Section C of the Notice of Proposed Rulemaking.

A. Public Policy Analysis and Comparative Benefits

1. The Extent of Fraudulent 911 Calls from NSI Devices and Associated Costs to Public Safety

Changes in mobile device technology or design have not had any impact on the overall numbers of fraudulent NSI 911 calls. NASNA members report that there has been no reduction in the occurrence of fraudulent 911 calls from NSI devices, although few states collect empirical data. One NASNA member described the occurrence of non-emergency calls from NSI devices as a "plague."

Accidental 911 calls may be lower than in the past since today's smart phones do not have an "emergency call" feature available from the lock screen like they used to, but it is no more difficult to make a fraudulent 911 call from a smart phone than from any other cellular device.

[1] Individual members may provide separate comments to the Commission that agree with, amplify, differ from, or are in addition to the comments offered by NASNA on this matter.

There are technological advancements that could increase the ability to trace back individual NSI callers and thereby deter fraudulent calls.

- First is to provide location information. Location information is typically delivered with NSI calls, although it suffers from the same location accuracy issues as other wireless 911 calls. While helpful, latitude and longitude information does not resolve the problem.

- Second is to register the phone in the owner's name and deliver that information to 911 along with a call-back number. NASNA believes the carriers should have the technical means to do this.

- Third is to block fraudulent NSI calls to 911. NASNA believes that service providers should have the technical means to do this.

These latter two solutions, had they been implemented, could have resolved the fraudulent NSI call issue long ago.

The Commission asked whether information exists on the percentage of fraudulent 911 calls coming from particular types of NSI devices or subsets of NSI device users, such as when a small number of individuals place hundreds or thousands of calls each, or children play with deactivated phones.

- Local jurisdictions may collect empirical data regarding the percentage of fraudulent NSI calls resulting from individuals calling 911 frequently when there is no emergency, but that information is not typically made available at the state level unless it is specifically requested.

- We know anecdotally that children playing with deactivated handsets do inadvertently call 911, although it appears that no jurisdiction collects empirical data on this particular subset of NSI phone user. In response to our survey, one jurisdiction reported that the call-taker attempts to persuade the child to put his or her parent on the line, and then they talk to the parent in an effort to educate him/her and thereby deter future calls from the child. This process effectively prevents the call-taker from handling other incoming 911 calls.

- NASNA members have not heard of people obtaining NSI phones for the specific purpose of making fraudulent 911 calls.

With regard to costs, there continues to be an impact on PSAPs that are troubled with fraudulent 911 calls made from NSI phones. Nothing has changed in that regard, although we do not have much empirical cost data to provide by way of documentation. One local jurisdiction reported that it receives two to six fraudulent NSI 911 calls a day, requiring two to four hours of a technician's time. If this is typical nationwide, it should be a simple matter of determining the average hourly wage for 911 technical staff and doing the math.

With regard to the human impact, every fraudulent 911 call takes a call-taker's time. The time spent on fraudulent or non-emergency NSI calls is time taken away from legitimate emergencies. We here provide some empirical information from local jurisdictions that responded to our member states' request for information.

- The City of Grand Rapids, Michigan, PSAP reported receiving 1,162 NSI calls in the month of April 2015 of which only a small percentage were legitimate calls for service.

- The Oahu, Hawaii, Police Department PSAP reported receiving between 200-300 calls daily over a recent nine-month period from an individual using a NSI device. This individual's calls were not limited to a specific time of day or shift and because the person would either whisper or leave the line open, the call-takers handled the calls as though they were real emergencies. In an effort to identify the location of the individual, officers in the field were asked to sound their sirens while the call-taker was on the line with the caller. At some point, they were able to determine that the individual was in a densely populated area of Honolulu. Law Enforcement increased the frequency of its patrols in the area in an effort to identify the exact location of the caller. As the agency continued its efforts to identify the individual, the calls to 911 stopped abruptly.

- The PSAP in Hawaii County, Hawaii, reported receiving 25 misuse of 911 cases since calendar year 2013, although they noted that some of these calls were from pay phones or landlines. They note that this figure may seem low, but does not reflect calls they do not track: dozens or even hundreds that come from children playing with NSI phones and prank calls that do not recur over a long period of time. This respondent pointedly said that the number of legitimate NSI calls to 911 is greater than the number of non-emergency or fraudulent NSI calls to 911.

- Iowa had an issue in Linn County. In March 2014 the County notified the State 911 Program Manager of a potential denial of service attack. The caller was not located until November of that year. She was not using any sort of auto dialer, just an uninitialized phone. The female who was making the calls was severely mentally handicapped and had a history of similar activity in Arkansas. From March to November, she called 911 more than 20,895 times.

- Minnesota reported a recent incident where a NSI phone placed a call to 911. There was background noise, but no one would speak to the call-taker. The lat and long put the caller in Redwood County, but the call routed to St. Louis County over 200 miles away. The State spent significant resources working to determine how this occurred and was told by the carrier that the "last known location" of this particular phone was from an owner who lived on the opposite side of the state, thus the call routed to the PSAP associated with that location. This was a new twist for the jurisdiction and obviously very problematic. It was never determined whether this was an actual emergency, a pocket dial, or a prank.

- Maine had 15,308 calls from NSI phones over the past six months. These 15,308 calls represent 8.2% of all wireless calls (187,008) and 5.4% of all calls (all class of services) (281,763) to 911. Of the 15,308 calls, 5,480 (35.8%) were also abandoned calls (callers hung up before they could be answered). The state noted that it has no way of knowing how many were real emergencies but said that as many as 56 of those NSI calls came from a single device.

- Maryland had a problem in Prince George's County over the 2015 Memorial Day Weekend. From around midnight on Friday, 22 May until mid-morning on Tuesday, 26 May, the 911 center received more than 2,504 hang up calls from a NSI phone. The County's phone

technician attempted to work with the carrier to have the phone cut off, but was told that would not be possible since there was no longer any service associated with the phone. The latitude and longitude information varied slightly from call to call, but the carrier confirmed that the calls were clustered in proximity to a specific cell tower. Police officers were sent to the general vicinity in an attempt to locate the caller, but were unsuccessful.

- Florida's Lee County PSAP reported that it receives two to six fraudulent NSI calls per day, and that NSI caller identification requires an average of two to four hours of a public safety technician's time. Most of the fraudulent NSI calls they receive originate from the same phones and occur repeatedly as a harassment either to law enforcement or to an unidentified subject known to the caller. The perpetrator is very seldom identified, and if identified, very seldom held accountable.

While supportive of the Commission's proposal with regard to NSI phones, we are still concerned about elderly people who have been sold 911-only phones. In our opinion, any sunset period for this category of NSI user should be longer than six months, perhaps as long as a year, in order to allow local, state and federal governments and the purveyors of 911-only phones to reach out to the elderly community and inform them of the change.

2. Decreasing Benefits of the NSI Rule

It is true that the market has changed since the 2013 *Public Notice* and consumers have more low-cost options than they did at that time. That said, local jurisdictions within our member states and our member states themselves have differing opinions on the need to maintain the requirement that NSI calls to 911 must be forwarded to a PSAP.

For example, the County of Hawaii, Hawaii, felt that low cost or Lifeline plans may be an alternative for *some* NSI users, *but not all*. It cited one carrier's Lifeline plan as costing $25 a month, which may be out of reach for some low-income people. Maui and Oahu Counties in Hawaii expressed similar views. Other jurisdictions within our member states felt that the rule should be sunset as soon as possible, because fraudulent NSI calls have such a significant impact on PSAP operations. Taken as a whole, NASNA members and their respective jurisdictions support the Commission's proposal to sunset its call forwarding rule on the basis that low-cost prepaid services and Lifeline supported services are feasible alternatives for most NSI phone users. Also taken as a whole, our members remain concerned for the small segment of society for whom those alternatives will remain unaffordable.

B. **Sunset of the NSI Requirement after a Reasonable Transition Period**

If the Commission sunsets its NSI rule, then NASNA agrees that a uniform sunset date would be best. Six months is probably too short; twelve would be better to ensure that those who truly rely on NSI phones for emergencies can be reached and can get themselves set up with a satisfactory alternative. The most vulnerable citizens may simply need more than six months' time, particularly if they rely on social service or community organizations.

Regardless of the length of the transition period, it would have to be accompanied by an aggressive and targeted educational campaign. Such a campaign must include entities that receive NSI phones for distribution to their constituents, e.g., battered women's shelters, homeless shelters, senior

centers and the like. It must include wireless carriers. It must include Eligible Telecommunications Carriers and providers of Lifeline phone services. It must include manufacturers and retailers of 911-only devices. These entities need to be educated, and they, in turn, must educate and inform their NSI phone recipients and users. Media buy-in is essential.

The counties of the State of Hawaii recommended these elements of a comprehensive educational campaign:

- Mission and Vision Statement
- Guiding Principles
- Time Based Objective (whether it's a phase out or specific sunset end date)
- Strategies for achieving the goal (e.g., Web, radio and TV ads or Public Service Announcements; posters/banners in wireless stores; handouts for agencies that distribute these phones or serve low-income people; messages to companies that sell 911-only devices; messages to Eligible Telecommunications Carriers.)
- Action Items for how these strategies will be accomplished
- Assessment along the way and at end of the transition period.

Local jurisdictions voiced a very strong concern that underscored the need for a comprehensive educational campaign: PSAPs would face the outrage of the public if they were not able to dial 911 with these devices. Members of the public will not direct their ire at carriers or the FCC – they will blame the 911 center that did not get their call. PSAPs would need the support and backing of their local, state and federal government in potential legal proceedings, but, more importantly the support of the media in instances where a user was not able to use a NSI phone in an emergency with resulting loss of life, etc.

With regard to a comprehensive public education campaign, NASNA members differ in terms of how much or whether they could be involved. Some states can use their 911 funds for public education and could assist with this initiative. Others are prohibited from using 911 funds in this way. The major portion of the burden needs to be on the CMRS carriers, the Lifeline providers, and the 911-only device providers to inform and assist their customers and the entities to whom they distribute or sell NSI phones.

C. **Protecting Calls to 911 from Service-Initialized Devices that May Appear to be NSI Devices**

NASNA understands that there will continue to be circumstances in which a service-initialized device will appear to be a NSI device to a CMRS provider's network. The State of Maine reported that some 911 calls that route across the border from Canadian cell towers look like NSI calls, and we suspect this may be true for other states that share an international border.

We presume that carriers would be able to distinguish calls made in these types of circumstances from calls made from true NSI devices. Assuming we are correct, then such 911 calls need to be forwarded, because the circumstances that made the call a NSI call may be no fault of the caller. In preventable circumstances, such as when a user's minutes are about to run out, if carriers can do something preemptively, then they should do it. In a similar vein, if a user's minutes run out and he or she has not yet purchased more minutes, carriers should continue to forward 911 calls for at least a month's grace period.

D. **Technical and Operational Considerations Relating to Sunset of the NSI Rule**

In this section of the NPRM, the Commission asked what, if anything, PSAPs would need to do to accommodate the sunset of the NSI requirement after six months, whether PSAPs would incur any costs, or if there were timing considerations that should be taken into account.

NASNA's constituents responded that costs would be minimal and associated with in-service training and updating policies and procedures. They likewise did not think there was anything specific they would need to do to accommodate a fixed-date sunset. A phased-out approach could pose some challenges, particularly if it were geographically based. But, absent specific information about what a phase out would look like, PSAPs would simply handle a NSI call the same as they always have: as a legitimate 911 emergency.

The State of Hawaii's constituents noted that they, like many other states, are in the process of implementing text-to-911, and that timing needs to be coordinated so as not to confuse the public.

E. **Alternative Approaches to the Problem of Fraudulent NSI 911 Calls**

In the various proceedings associated with this issue over the years, the Commission has sought comment on other means of reducing the incidence of fraudulent calls to 911 from NSI devices, including blocking calls from specific devices, implementing call-back capabilities for NSI devices, and requiring CMRS provider-sponsored device donation programs to provide service-initialized devices.

Occasionally, repeat fraudsters have been identified and their calls blocked. Implementing call-back capabilities or initializing donated phones have not occurred, however, despite the fact that the Commission has repeatedly raised these issues. This fact speaks volumes. If, after all these years, these alternatives have not been implemented, it is highly unlikely that they will be in the future. It is time to move on.

NASNA appreciates the opportunity to comment on this important matter, and thanks the Commission in advance for its consideration of our submission.

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Respectfully submitted,

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