

**Before the
Navajo Nation Telecommunications Regulatory Commission**

In the Matter of)	
)	
Navajo Nation 911 Service and Public Safety)	No. NNTRC-12-001
Answering Point (PSAP))	
)	
)	

REPORT AND ORDER

Adopted: July 10, 2014

Released: July 18, 2014

Introduction:

1. The NNTRC has been delegated under Navajo law the responsibility of protecting the public that use communications devices in any form or manner. In this matter the core issue is that the Navajo Public is using a phone or a cell phone to call for immediate assistance in an emergency by dialing the National Emergency Number, 9-1-1.

2. The lack of a comprehensive Navajo Nation 9-1-1 emergency communication system continues to endanger the Navajo Public. The current 9-1-1 deployment on the Navajo Nation lacks the ability to display vital information for call takers and therefore vital time is lost in gathering that vital information for first responders. The current system is not a true 9-1-1 system as defined under federal rules. Despite this condition call takers and first responding agencies on the Navajo Nation are doing their best to use alternate methods to gather the information to get on the scene and/or to understand the scenario. We have noted this condition continuously in the Navajo Nation Executive Branch Quarterly Reports¹

3. A comprehensive Navajo Nation 9-1-1 communication system should provide key vital information and additional applicable information to call takers while giving the call takers the ability to relay that information to first responders with minimal effort. We will begin the process to institutionalize a program that coordinates the various data, tasks and duties that encompass a comprehensive Navajo Nation 9-1-1 emergency communication system. This process is not a project, but rather a new program that will act as an umbrella pulling together programs in other agencies and divisions to ensure accountability, transparency and coordination, while respecting Navajo sovereignty by communicating and negotiating with adjacent jurisdictions and communities. The goal and measure of

¹ See Presidential Quarterly Reports.

success for this new program is to have developed and implemented a true 9-1-1 Public Safety Answering Point (PSAP) for the Navajo Nation.

4. In accomplishing this goal of developing and implementing an effective 9-1-1 system on the Navajo Nation, we do not intend to take over operations of existing programs such as the Navajo Public Safety call centers or the Division of Community Development Rural Addressing Authority, but rather set up an office as a resource center for the general public, foreign agencies and Navajo entities that wish to engage the Navajo Nation on 9-1-1 related matters. To accomplish these tasks and goals, the NNTRC hereby establishes the official names for the entire program and a new office, and hereby directs the NNTRC Office to file the appropriate budget forms and documentation for Fiscal Year 2015.

5. Transparency and openness to the development of policies toward the new program are fundamental and key, and we hold ourselves accountable to these values, and so we will enact the creation of two (2) advisory groups as originally proposed in the recommendation document. We will define the initial roles they play in the scheme of the new program, and will outline the membership and duties of these two advisory groups. These groups are essential to the success of the program for they allow members of the first responder's community, operators, policy makers, administrators, and other stake holders the opportunity to voice concerns and add input into the key elements of the program.

6. Lastly, we review the key events listed in the following section under "Background," that have surrounded our new statutory authority for 9-1-1 and provided the reasoning on selecting the current strategy of Next Generation 9-1-1, and abandoning Enhanced 9-1-1 implementation on the Navajo Nation. We conclude that Next Generation is a comprehensive system and that the policy and governance aspect of Emergency Interoperability Communications and the First Responders Broadband Network (FirstNet) are crucial and must be integrated into the 9-1-1 Program.

Background:

7. On July 25, 2011, the Law & Order Committee of the 22nd Navajo Nation Council called for status reports on 9-1-1 from the NNTRC, Navajo Department of Public Safety and the Navajo Nation Rural Addressing Authority. The Committee recommended that the Office of the Navajo Nation President and Vice President (OPVP) to create an action plan to address the 9-1-1 emergency system on the Navajo Nation. The NNTRC informed the OPVP of the directive and began looking into the 9-1-1 on the Navajo Nation.

8. On August 18, 2011, the NNTRC conducted a regular meeting in Farmington, New Mexico dedicated to 9-1-1. We received reports from officers of the Navajo Department of Public Safety and the

Executive Director of the NNTRC. From the findings of these previous meetings we opened a proceeding to seek comments and input on how to the Navajo Nation should go forward in solving the current 9-1-1 condition on the Navajo Nation.

9. On February 22, 2012, Congress enacted the Next Generation Advancement Act of 2012 (NG911 ACT) as part of the Middle Class Tax Relief and Job Creation Act of 2012. Subsequently, the FCC released a public notice in November 2012 to collect comments on: (1) A legal and regulatory framework for NG 911, (2) Legal mechanisms for accurate caller information delivery to PSAPs, (3) Issues on jurisdictional barriers and legacy regulations. The NG911 ACT is a key event marking the end of Enhanced 911 and development of NG911 across the United States.

10. On November 9, 2012, we release a Notice of Inquiry (NOI) in the Matter of Navajo Nation 911 Service and Public Safety Answering Point (PSAP). A NOI is a formal administrative document commonly used to gather input from external entities on a particular issue to which the issuing agency has jurisdiction. The NOI gives a background and lists various questions for response. This NOI was limited by the statutory authority of the NNTRC, and sought to gather input from stakeholders, including federal, state, county and tribal governments as well as industry.

11. In this NOI we stated that the Navajo Nation does not have an operational PSAP within the territorial jurisdiction of the Navajo Nation, and that over the past decade the Nation has made at least two concerted efforts to complete service plans that met the requirements set by the 9-1-1 Administrator of the State of Arizona. We found the Navajo Nation Public Safety dispatch centers which act as 9-1-1 calls centers are receiving emergency calls on administrative lines where basic information like phone numbers cannot be linked to the call takers workstation display. As of July 9, 2014 we have not received any update that would indicate that this condition has changed.

12. On December 28, 2012, we closed the NOI for comments, and we began the process of evaluating the responses. The comments that were received by the office have been posted to the NNTRC web site at <http://nntrc.org>. We received comments from local telephone service providers, and CTIA- the Wireless Association. In addition, the Navajo Department of Public Safety submitted a memorandum which was part of their July 25, 2011 9-1-1 update to Law and Order Committee. This memorandum has more specifics as to the 9-1-1 efforts that occurred in the previous attempts that preceded the events listed above.

13. On February 22, 2013 The FCC released the “Legal and Regulatory Framework for Next Generation 911 Services, Report to Congress and Recommendations.” This report is a FCC obligation to

Congress as part of the NG911 ACT. The Report states that “legacy 911 will eventually be entirely replaced by IP-based technologies and applications that provide all of the same functions as the legacy 911 systems as well as new capabilities.” Soon after, in March 2013, the E911 Implementation Coordination Office under the National Highway Traffic Safety Administration and National Telecommunications and Information Administration release the “Enhanced 911 (E911) Grant Program Final Report.” The report notes the “[o]ne grantee (Arizona) became ineligible when legislation was passed transferring 911 surcharge funds to the Arizona General Fund.” The Navajo Nation was not eligible to apply directly for this E911 grant program, based on the rule stating that “a state or territory was required to apply on behalf of all eligible entities...” The Navajo Nation was required to submit an acceptable service plan to an appropriate state entity before applying for any funding from this program which has since closed.

14. On March 12, 2013, the Law and Order Committee held a joint meeting with the Health, Education and Human Services Committee (“LOC & HEHSC”) at Black Falls, Arizona. Later in this document we recount the incident for our records.² We reported during meeting the actions the NNTRC has taken by describing the NOI released and the general feedback we have been able to review. We noted that we were pleased with the volume of feedback and the support from industry on the actions we were taking to address 9-1-1 on the Navajo Nation. We also described the type of relationship we have with the FCC and that the FCC was releasing reports and Notices for Rulemakings on various aspects of NG911. We noted to the joint session that we did not have, as of that time, authority to implement any rules or programs for 9-1-1 on the Navajo Nation, but we were in the process of acquiring a great understanding of the technical components and legal and regulatory framework.

15. On March 14, 2013 we held a Regular Meeting of the NNTRC in Window Rock, Arizona and as part of the reports received at that meeting, we heard from Ms. Gahn who called into the meeting by telephone to report to the Commission about the Leupp/Black Falls Fatal Accident, February 6, 2013.³ Here is a paraphrased version of the incident:

- At approximately 8:00 a.m. on February 6, 2013, a head-on vehicle collision occurred on a dirt road between Leupp and Black Falls, Arizona. Witnesses at the scene had cellphones and received cell service in the area. They dialed 911 and the call was routed to the Flagstaff, AZ PSAP, approximately 30 miles from the accident site (as the crow

² The Law and Order Committee and the Health, Education and Human Services Committee are both committees of the Navajo Nation Council.

³ See, Appendix A, transcript of testimony taken at March 14, 2013 NNTRC meeting. *See also* <http://www.navajohopiobserver.com/main.asp?SectionID=1&SubSectionID=1&ArticleID=15330> (newspaper report of meeting held to discuss emergency response times following the accident).

flies). The PSAP asked where the accident occurred, and when he/she was told that it was near Black Falls, AZ, on the Navajo reservation, the Flagstaff PSAP transferred the call to the Tuba City police dispatcher (nearly 100 road miles and over two hours drive time from the accident site). The Tuba City dispatcher did not know where Black Falls was, so transferred the call to the Dilkon, AZ police dispatcher. Dilkon is over 50 miles from the accident site, but because of the state of the undeveloped roads between Black Falls and Dilkon, is almost three hours away). The Dilkon police dispatcher also was unfamiliar with Black Falls, and transferred the call to the Winslow, AZ PSAP, which dispatched an ambulance, which arrived hours after the accident occurred. The Winslow PSAP also contacted the Leupp Fire Station, which sent a fire truck, but that unit ended up at the Black Falls Bible Church, located some 40 minutes East of Black Falls, and many miles from the crash site. Eventually a helicopter was dispatched to take one victim to the Flagstaff hospital. One woman survived the actual crash, but later died at the scene (the aunt of the person providing testimony to NNTRC), and her body remained untouched for some nine hours.

16. At the same meeting, we placed into the record a complaint filed by email to the NNTRC Office by reading the e-mail into the record and designating it “the Kayenta Prowler, March 8, 2013.”⁴

- At approximately 11:30 pm, a mother was in her bedroom in her house in Kayenta, AZ (population, 5,189⁵). She saw someone prowling outside her window. Over the next minutes she dialed 911 twice, but no one picked up the call. At 12:15 am she called the Kayenta Police Station directly to report the prowler, and police dispatch indicated that a officer would be dispatched. An officer finally arrived at 1:15 am.

17. In April of 2013, the NNTRC Office drafted and developed initial recommendations, derived from comments and research into how State entities address 9-1-1 at the state level, entitled “Navajo 9-1-1 Proposed Organizational Structure.” The Black Falls joint meeting set forth a new immediate urgency to propose a new structure and framework for implementing either an Enhanced 9-1-1 or Next Generation 9-1-1 emergency call system on the Navajo Nation that can be both sustainable and accountable.

18. On May 17, 2013 the FCC released a Report and Order (R&O) on the deployment of text-to-911 and the Framework for Next Generation 911 Deployment. In the R&O the FCC set the deadline as September 30, 2013 for all wireless carriers to implement a bounce back message to phone users if the carrier is unable to deliver the text message to the appropriate PSAP because the PSAP is unable to receive such type of a message.

19. On July 31, 2013, amendments to 2 N.N.C. §§3452-3453 and 21 N.N.C. §505(B) were introduced as legislation by the Health, Education and Human Services Committee which authorized

⁴ See Appendix B, transcript of complaint (name redacted).

⁵ Source: 2010 Census.

NNTRC to implement and manage a 9-1-1 emergency response system for the Navajo public on the Navajo Nation. The recommendation document provided a diagram of the program structure and a listing of actions necessary, many of which required changes to Navajo law to be adopted by the Navajo Council. On October 22, 2013, Navajo Council Legislation 0212-13 was passed by a vote of nineteen (19) in favor and zero (0) opposed.

20. On November 6, 2013, President Ben Shelly signed CO-51-13 delegating to NNTRC expanded authorities to implement a 9-1-1 emergency response system within the Navajo Nation. Since the FY2014 Budget for the NNTRC had already been approved prior to the signing of CO-51-13, we have no current funding to carry forward the new legislative authorities. We informed OPVP that we had an unfunded mandate and would be seeking supplemental funding to start the new program, all the while relying on existing funding to accomplish all of the tasks reported herein.

21. On December 12, 2013, the FCC adopted rules to improve the reliability and resiliency of 911 communications networks nationwide by requiring that 911 service providers take reasonable measures to provide reliable 911 services. The rules adopted included requiring 911 service providers, and other communications providers subject to existing rule, to notify PSAPs of communications outages “immediately.”

22. In January 2014, we submitted a supplemental budget request to access necessary resources from the Undesignated Unreserved Fund Balance (UUFB) to begin scoping and determining the necessary project steps and milestones for implementing Next Generation 9-1-1 and to begin analyzing steps necessary to implement a permanent funding mechanism via a telecommunication tax or surcharge.

23. On February 14, 2014 we set into the FCC record comments in response to an FCC Public Notice requesting comments on the *Fifth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges*. We provided to the FCC a brief history of 911 on the Navajo Nation including the two (2) stories listed above. We described the difficulty of obtaining funding from the federal and state governments due to the lack of a comprehensive service plan. We noted how the *Fifth Report* indicates that 75 percent of the BIA offices nationwide did not respond to the FCC request for data of 911 activities on tribal lands.

Discussion:

24. In naming the new program we initially titled the program the “Navajo 9-1-1 Program”, but then heard overwhelming concerns that this name was too easily confused with the 9-1-1 program in Navajo County Arizona. We conclude that the best name for the Program is the *Navajo Nation 9-1-1 Program*.

So here forward the *Navajo Nation 9-1-1 Program* will refer to the 9-1-1 program in the NNTRC Office which may encompass or umbrella various groups and offices that will be named and described later in this document.

25. The *Navajo Nation 9-1-1 Program* will be equivalent to State 9-1-1 programs that provide funding mechanisms and outline rules and regulations for 9-1-1 service providers in their jurisdictions. The *Navajo Nation 9-1-1 Program* will set rules and regulations for 9-1-1 service providers that operate on and in behalf of the Navajo Nation within the Navajo Nation jurisdiction. The FCC has recognized this jurisdictional authority in *Telecommunications Carriers Eligible for Universal Support (NTUA Wireless, LLC)*, DA 14-200, released February 18, 2014, ¶ 16 (“The Navajo Nation Telecommunications Regulatory Commission (NNTRC) was established by the Navajo Nation with authority to assert jurisdiction over matters of the telecommunications industry and services on the Navajo Nation”). The *Navajo Nation 9-1-1 Program* (“9-1-1 Program”) will be the sole 9-1-1 Authority for the Navajo Nation.

26. We find that this authority is granted by 2 N.N.C §§3453(7)&(8) and we are using this *R&O* to carry forward this mandate. We place this mandate as the number one priority for the NNTRC Office, and this should be reflected in the Strategic Plan for budgeting purposes. We recommend a new position be established at the appropriate level to begin to fulfill the duties of the new *9-1-1 Program*.

27. The NNTRC Office shall begin other strategic initiatives as soon as possible and as resources become available which shall include planning and developing the following:

- a.) To establish a Navajo Nation 9-1-1 surcharge for landlines, mobile wireless contract, and prepaid plans on the Navajo Nation,
- b.) To establish a Navajo Nation 9-1-1 Fund that will provide funds for eligible departments, contractors, and/or creditors,
- c.) To ensure agreements with neighboring jurisdictions and/agencies are up to date and applicable,
- d.) To coordinate efforts of NG 9-1-1, with Interoperability Communications, and FirstNET.

28. We authorize the NNTRC Office to create and establish three (3) groups within its body for the purpose of developing and implementing the *9-1-1 Program* a transparent and open manner. The first group is the *Navajo Nation 9-1-1 Program Resource Center* (“*Resource Center*”) with initial duties and responsibilities that are under the direction of NNTRC Director as follows:

- a.) To act upon recommendations of both Technical and Governmental Advisory Committees,
- b.) To organize and coordinate the meetings of Technical and Governmental Advisory Committees,

- c.) To collect and maintain a complete listing of stakeholder agencies within and outside the Navajo Nation,
- d.) To coordinate meetings and agreements with neighboring jurisdictions or mutual aid services areas,
- e.) To educate the public to the proper use of 9-1-1,
- f.) To receive and file complaints on 9-1-1 service from the Navajo Public,
- g.) To aid in the development of necessary recommendations for rule makings,
- h.) To prepare necessary reports for the NNTRC and oversight committees on the *9-1-1 Program*.

29. The second group is the *Navajo Nation 9-1-1 Technical Advisory Committee ("911-TAC")* with duties and responsibilities to make recommendations and reports to NNTRC concerning technical aspects of the *9-1-1 Program*. Initially, we suggest the group begin by immediately reviewing the submission of the *Resource Center* in the following areas.

- a.) Details and development of *Service Plan Guidelines*,
- b.) Implementation and technical standards for the Navajo NG911 database,
- c.) PSAP configurations and equipment,
- d.) Status of Rural Addressing efforts,
- e.) Overall costs and billing, i.e., NG911 ESInet and PSAP equipment costs.

30. The *911-TAC* will consist of thirteen (13) voting members that shall be selected by the Chairperson of the NNTRC. *911-TAC* will be chaired by the Director or a designated Commissioner of the NNTRC and organized by the *Resource Center*, and when convened seven (7) shall constitute a quorum. Actions taken and/or recommendations written by the *911-TAC* shall be submitted to the *Resource Center* and subject to approval by the NNTRC. The initial membership of *911-TAC* will be composed of the following:

- a.) One member from the Navajo Department of Public Safety
- b.) One member from the Navajo EMS Department
- c.) One member from the Navajo Nation Fire Response Community
- d.) One member from the Navajo Nation Rural Addressing Authority
- e.) One member from the Navajo Nation 911 Dispatcher Community
- f.) One member from the Navajo Tribal Utility Authority
- g.) One member from Frontier/Navajo Communications
- h.) One member from Smith Bagley DBA CellularOne
- i.) One member from Sacred Wind Communications
- j.) One member from NTUA Wireless
- k.) One member from the Indian Health Service or Health 638 Program
- l.) One member from a local PSAP Manager on or off the Navajo Nation
- m.) One member from an Address Authority off the Navajo Nation

31. The third group is the *Navajo Nation 9-1-1 Governmental Advisory Committee* (“911-GAC”) with duties and responsibilities to make recommendations and reports to NNTRC on key policy issues from the perspective of local, state, and federal governments on items such as the following:

- a.) Funding programs with approved *Service Plans*
- b.) Modeling/Template of *mutual aid agreements*
- c.) Ensuring the 9-1-1 Program compliance with NENA Rules
- d.) Reviewing rulemakings and waivers for *Rural Addressing Rules*.
- e.) Investigate consumer complaints
- f.) Make recommendations on consumer privacy
- g.) Comment on matters involving agencies such as States, Counties, and Municipalities, etc.,

32. The *911-GAC* will consist of twenty-three (23) voting members that shall be selected by the Chairperson of the NNTRC. *911-GAC* will be chaired by the Director or a Commissioner of the NNTRC and organized by *Resource Center*, and when convened thirteen (13) attending members shall constitute a quorum. The membership of *911-GAC* will be composed of the following:

- a.) Five members from Navajo Nation Agency Council Membership
- b.) Five members who are Navajo Chapter CSC or Chapter Managers
- c.) Two members who are representatives from the County government
- d.) Two members who are representatives of a Municipality government
- e.) One member who is a representative from a State government
- f.) One member of the Navajo Nation Division of General Services
- g.) One member of the Navajo Nation Division of Community Development
- h.) One member of the Navajo Department of Public Safety
- i.) One member of the Navajo Division of Health
- j.) One member who represents the Navajo Education community (k-12 or College/University)
- k.) One member who represents the Navajo Traditional Medicine community
- l.) One member of the Health, Education and Human Services Committee of the Navajo Nation Council
- m.) One member of the Law & Order Committee of the Navajo Nation Council

33. We are attempting to limit the committees’ membership to a number which can be effective, but do recognize that *911-TAC* and *911-GAC* membership may need to be adjusted from time to time. If a membership is vacant, the Chairperson of the NNTRC can appoint a new member at any time. The NNTRC may choose to amend the committee membership if it is discovered that the membership composition can be deemed more effective if adjusted.

34. Finally, in reviewing the many actions that resulted from the *NG911 ACT* such as the *FCC report to Congress on the Legal & Regulatory Framework for Next Generation 911 Services* and the fact that issues revealed in the *Leupp/Black Falls Fatal Accident*, and the *Kayenta Prowler* are still unresolved, the

NNTRC must embark on a path that begins to set forth a mechanism for addressing these issues. In the *Black Falls Accident* there was a failure in the coordination of responding agencies based on their lack of knowledge of the geographic area where the accident occurred. To date the NNTRC has not received an update on how or if the issue has been addressed. The exchange of GIS information on the location of the accident between call takers and/or dispatchers would have identified or redefined the responders immediately, thus saving valuable time in the response. GIS information is at the core of the NG911 solutions. Therefore, adopting NG911 for the Navajo Nation immediately is in the best interest of the Navajo Nation.

35. In the *Kayenta Prowler* incident no one picked up the call. This type of complaint has been echoed by others on the Navajo Nation who described their experiences with 9-1-1 on the Navajo Nation to the NNTRC Executive Director verbally. There is a critical need to have calls that go unanswered to be switched to an alternative call center. NG911 has this capability inherently.

36. Accordingly, we declare and order that *9-1-1 Program* shall pursue NG911 as the solution for the Navajo Nation. The *9-1-1 Program* shall avoid at all cost the implementation of legacy 911 services such as selective routers and tabular MSAGs. Instead, the *9-1-1 Program* shall immediately begin compiling the GIS requirements and data sets for implementing GIS tools and systems as the primary instruments for implementing NG911.

37. To complete the 9-1-1 call centers IP functionality the FirstNet initiative and Emergency Interoperability Communications must be integrated into the process and/or NG911 solution. We do have the authority to oversee the development of these communication services on the Navajo Nation, and therefore order that these two systems be an integral part of the planning process and that all such continued efforts commence immediately. We will begin interfacing on the level of governance and policy with Federal and State officials to ensure that the full effectiveness of these two distinct initiatives are coordinated for the *Navajo Nation 9-1-1 Program*.

Ordering Clause

38. Accordingly, It is ORDERED that pursuant to the Statutory Authority of the NNTRC under 2 N.N.C., §§ 3451-55 and 21 N.N.C. §§ 501-529, this Recommendation is HEREBY ADOPTED.

The Navajo Nation Telecommunications Regulatory Commission.

/s/

Bob Begaye, Chairman- Navajo Nation Telecommunications Regulatory Commission