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Christina M. Eastman
Pacific McGeorge School of Law

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Chapter 89: Rescuing 911?

Christina M. Eastman

Code Section Affected

Penal Code § 653y (amended).

AB 1976 (Benoit); 2008 STAT. Ch. 89.

I. INTRODUCTION

In February 2008, after more than a month of tracking, police in Hayward, California finally arrested a man for allegedly making over one million frivolous calls to 911 from his cell phone.¹ The man called 911 for no other reason than to make “various noises, including grunts and other bodily noises, minimal conversation in a disguised voice, [and] beeps from the touchpad.”² The California Highway Patrol (CHP) received over 17,000 911 calls from his cell phone between May 2007 and February 2008.³ Additionally, Hayward Police stated that in one week they received 1,327 calls to 911 from this person, increasing their call volume by thirty percent and overwhelming their 911 dispatch centers.⁴ When police finally tracked and arrested him, they asked him why he made the calls.⁵ His response: “[B]ecause it’s free.”⁶

The Hayward case is an extreme example of the daily problems plaguing 911 emergency call centers throughout California.⁷ Increased ownership and use of cell phones makes it easier to call 911 from any place at any time, resulting in hundreds of people calling to report a single incident.⁸ An even larger problem for 911 call centers, however, is the large number of non-emergency calls fielded

1. *Hayward Prank Caller Jams 911 Line a Million Times*, NBC11, Feb. 14, 2008, <http://www.nbc11.com/news/15307879/detail.html> (on file with the *McGeorge Law Review*).

2. *Id.*

3. *Id.* Hayward Police began receiving calls from the man’s cell phone on January 8, 2008 when they started taking T-Mobile 911 cell calls, and by the time he was arrested on February 13, 2008, Hayward Police received over 10,000 calls from his cell phone. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. *See State’s 911 Call Centers Overtaxed by Cell Calls*, KTVU, Aug. 26, 2007, <http://www.ktvu.com/print/13977839/detail.html> (on file with the *McGeorge Law Review*) (stating that emergency dispatch centers are overwhelmed by 911 cell calls because multiple callers can report a single incident and many callers use 911 for non-emergencies).

8. *See CAL. PERFORMANCE REVIEW COMM’N*, 4 ISSUES AND RECOMMENDATIONS 1403 (2004), available at http://cpr.ca.gov/CPR_Report/Issues_and_Recommendations/pdf/chapter7.pdf (on file with the *McGeorge Law Review*) (“A recent tanker truck fire on a Sacramento freeway resulted in over 1,000 cell phone calls to the Sacramento 911 call center and tied-up all five operators for over an hour.”); *State’s 911 Call Centers Overtaxed by Cell Calls*, *supra* note 7 (“Cell phone emergency calls take longer to handle and dispatchers can easily become swamped, such as when multiple callers report from the same accident scene.”).

by 911 dispatchers.⁹ Due to the overwhelming number of 911 calls received by the call centers, wait times have soared throughout California.¹⁰ In July 2007, some of the longest wait times include forty-seven minutes in the Ventura area, twenty-seven minutes in the Los Angeles area, and sixteen minutes in the Bay area.¹¹ These long wait times can mean the difference between life and death for those truly in need of emergency services.¹²

Chapter 89 seeks to alleviate this problem by improving the availability of emergency services through increased penalties for those who knowingly misuse the 911 system in California.¹³

II. BACKGROUND

A. *The Impact of 911 Misuse in California*

Misuse of the 911 system exacerbates the severe problems that plague the already overtaxed emergency call centers.¹⁴ Rapidly advancing cell phone technology and the proliferation of cell phone use has overwhelmed 911 call centers that lack funding to improve technology.¹⁵ In 2006, more than eight million 911 calls were made from cell phones in California.¹⁶ This is roughly ten times the number of wireless 911 calls made in 1990.¹⁷ The CHP call centers, which receive around seventy-five percent of the wireless 911 calls in the state, are struggling to answer all the calls, leading to drastic increases in wait times throughout California.¹⁸ Misuse of the 911 system contributes significantly to the

9. See *State's 911 Call Centers Overtaxed by Cell Calls*, *supra* note 7 (noting that cell phone users who call 911 for non-emergency purposes are partly to blame for long wait times at California emergency call centers).

10. See *Large Number of Cell Phone Calls Tax State 911 System*, CAL. HEALTHLINE, Sept. 4, 2007, <http://www.californiahealthline.org/articles/2007/9/4/Large-Number-of-Cell-Phone-Calls-Tax-State-911-System.aspx?topicID=50> (on file with the *McGeorge Law Review*) (attributing the 47-minute wait time in the Ventura Area to a proportional increase of non-emergency 911 calls).

11. *Id.*

12. See *State's 911 Call Centers Overtaxed by Cell Calls*, *supra* note 7 ("Elementary school counselor Brad Edwards waited eight minutes for a dispatcher to pick up an emergency call he made from his cell phone when a student collapsed and began foaming at the mouth.").

13. See ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at 4 (Apr. 15, 2008) ("This legislation will ensure that . . . those who continue to make illegal phone calls to 911 will be held responsible for the costs that they inflict."); CAL. PENAL CODE § 653y(a) (West Supp. 2008) (listing penalties ranging from a written warning to a \$200 fine).

14. *State's 911 Call Centers Overtaxed by Cell Calls*, *supra* note 7.

15. See Robert J. Lopez & Rich Connell, *Cell Phones Swamping 911 System*, L.A. TIMES, Aug. 26, 2007, at A-1 (noting that problems are aggravated by call surges, staffing shortages, and technological hurdles).

16. *Id.*

17. *Id.*

18. *Id.*

overwhelming number of calls that the emergency call centers receive and diverts resources away from true emergencies.¹⁹

1. Unintentional Misuse

“Unintentional calls occur when a person or phone inadvertently dials 911.”²⁰ Incidents of unintentional calls include phantom calls, misdials, and hang-ups.²¹ Phantom calls occur when a phone, usually a cell phone, automatically dials 911 when the number 9 or 1 is bumped while the phone is attached to a belt or inside a purse.²² A phantom call can also occur when someone accidentally presses resend after purposely calling 911.²³ The CHP estimates that between 1.8 million and 3.6 million of the wireless 911 calls it receives each year are phantom calls.²⁴

Misdials and hang-ups also pose a serious problem for 911 call centers. Many misdials may be the result of callers attempting to dial a phone number that begins with an area code similar to 911.²⁵ One such area code in California is Sacramento’s 916 area code.²⁶ Oftentimes, dispatchers call these numbers back to verify that an emergency does not exist, which involves a significant amount of time.²⁷

2. Intentional Misuse

Intentional misuse of the 911 system includes purposeful non-emergency inquiry calls and prank calls.²⁸ These calls present an enormous problem for 911 call centers.²⁹ For example, in 2001, the San Diego Sheriff’s Department estimated that more than half of its 911 calls were frivolous.³⁰ Many people do not understand what constitutes a true emergency; thus, they call 911 about matters that require police attention but are not emergencies, such as reporting that a car was broken into overnight or reporting a non-injury vehicle accident.³¹

19. *State’s 911 Call Centers Overtaxed by Cell Calls*, *supra* note 7.
20. RANA SAMPSON, U.S. DEP’T OF JUSTICE, MISUSE AND ABUSE OF 911, at 2 (2004), available at <http://www.cops.usdoj.gov/pdf/pop/e06021603.pdf> (on file with the *McGeorge Law Review*).
21. *Id.*
22. *Id.*
23. *Id.* at 3.
24. ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at 7 (Apr. 15, 2008).
25. SAMPSON, *supra* note 20, at 4.
26. *Id.*
27. *Id.* (“If a caller hangs up, many agencies conduct callbacks or dispatch officers to determine if a police or medical emergency exists.”).
28. *Id.* at 5.
29. *Id.*
30. ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at 5 (Apr. 15, 2008).
31. SAMPSON, *supra* note 20, at 5.

Others call 911 to inquire about matters entirely unrelated to police emergency services, such as asking for directions or about traffic on the highway.³² One caller even dialed 911 to ask a dispatcher to assist him in determining whether he had a valid email address.³³

Due to the outdated technology that most 911 call centers use, it is nearly impossible to track the location and identity of callers who misuse the 911 system from a cell phone.³⁴ Many cell phones do not send location information to dispatchers when callers dial 911, and most 911 call centers do not have the appropriate technology to receive location information from cell phone carriers.³⁵ For example, the CHP has been unable to locate a Vallejo, California man who placed approximately two thousand prank calls to 911, reporting fake emergencies and summoning police officers and firefighters to locations where no emergency existed.³⁶ The lack of a comprehensive database that documents calls made by a single user to different call centers throughout the state hinders authorities' ability to track misuse.³⁷ The combined effects of outdated 911 technology, an inadequate misuse tracking system, and the proliferation of cell phone use has created a situation in which emergency services are less readily accessible, leading to potentially devastating consequences for those who need help the most.³⁸

B. Current California Law

Section 653x of the California Penal Code, one of the first California statutes that addressed explicit penalties for misusing the 911 telephone system, provides

32. *State's 911 Call Centers Overtaxed by Cell Calls*, *supra* note 7; *see also* SAMPSON, *supra* note 20, at 5 ("Others call 911 to ask about non-police-related matters (e.g., the time of a football game, the directions to a local event, the exact time of day, or the time of garbage pickups)."). There have even been allegations of misuse of the Washington D.C. 911 system by Joe McCain, the brother of John McCain:

Operator: 911 state your emergency

Caller: It's not an emergency, but do you know why on one side at the damn drawbridge of 95 traffic is stopped for 15 minutes and yet traffic's coming the other way?

Operator: Sir, are you calling 911 to complain about traffic? (pause)

Caller: "(Expletive) you." (caller hangs up)

Joe McCain Allegedly Calls 911 To Complain About Traffic, ABC7, Oct. 24, 2008, <http://www.wjla.com/news/stories/1008/563913.html> (on file with the *McGeorge Law Review*).

33. *Benoit Phony 911 Call Bill Heads to Senate*, CAL. CHRON., May 1, 2008, <http://www.californiachronicle.com/articles/view/60428> (on file with the *McGeorge Law Review*).

34. CAL. PERFORMANCE REVIEW COMM'N, *supra* note 8, at 1403-04.

35. *See Lopez & Connell*, *supra* note 15 ("The difficulty in pinpointing the location of cellphone callers has long been recognized.").

36. Demian Bulwa, *Crank Caller Tying Up 911 Dispatchers, Cops with Fake Emergencies*, S.F. CHRON., Sept. 3, 2007, at D-6. Authorities want to prosecute the man, but they have been unable to locate him because he calls 911 from a cell phone that was donated by a charity group to the homeless. *Id.*

37. *See* CAL. PERFORMANCE REVIEW COMM'N, *supra* note 8, at 1405 (recommending standardized databases so information and data can be shared).

38. *Lopez & Connell*, *supra* note 15; CAL. PERFORMANCE REVIEW COMM'N, *supra* note 8, at 1403-04.

that “[a]ny person who telephones the 911 emergency line with the intent to annoy or harass another person is guilty of a misdemeanor” punishable by up to a one thousand dollar fine, six months in jail, or both.³⁹ The statute also specifically defines “the intent to annoy or harass” as “repeated calls over a period of time, however short, that are unreasonable under the circumstances.”⁴⁰

In 2004, the California Legislature enacted Chapter 295, adding section 653y to the Penal Code.⁴¹ This statute was meant to address calls made to the 911 system, such as non-emergency inquiry calls, that fall below the “intent to annoy or harass” standard required under section 653x, but which still constitute misuse of the 911 system.⁴² Under this section, “[a]ny person who knowingly allows the use or who uses the 911 telephone system for any reason other than because of an emergency is guilty of an infraction.”⁴³ The agency that receives the 911 call may issue a warning for a first and second violation.⁴⁴ For a third violation, a \$50 fine may be issued; for a fourth violation, a \$100 fine; and for any subsequent violation, a \$200 fine per violation.⁴⁵ Proponents of this law hoped to reduce the number of frivolous 911 calls by issuing citations and providing educational materials to those who misused the system, but did not intend to annoy or harass.⁴⁶

III. CHAPTER 89

Chapter 89 increases fines for knowingly using or allowing the use of the 911 telephone system for non-emergency purposes.⁴⁷ The public safety entity that receives the call shall issue a written warning for the first violation.⁴⁸ Chapter 89 eliminates the second warning and authorizes the public safety entity to issue citations with fines for all subsequent violations.⁴⁹ The fine for a second violation

39. CAL. PENAL CODE § 653x(a) (West 1999).

40. *Id.* § 653x(b).

41. *Id.* § 653y.

42. See ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 911, at 3 (Jan. 13, 2004) (“This bill reduced the number of nuisance calls being made to the 911 system.”).

43. CAL. PENAL CODE § 653y(a). For the purposes of this section, an “emergency” is defined as “any condition in which emergency services will result in the saving of a life, a reduction in the destruction of property, quicker apprehension of criminals, or assistance with potentially life-threatening medical problems, a fire, a need for rescue, an imminent potential crime, or a similar situation in which immediate assistance is required.” *Id.* § 653y(c).

44. *Id.* § 653y(a)(1).

45. *Id.* § 653y(a)(2)(A)-(C).

46. See ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 911, at 3 (Jan. 13, 2004) (“By making these calls an infraction and providing educational materials upon the first offense, individuals that have a problem using the 911 system for frivolous calls can be better educated on its proper use.”).

47. CAL. PENAL CODE § 653y (amended by Chapter 89).

48. *Id.* § 653y(a)(1) (amended by Chapter 89).

49. *Id.* § 653y(a)(2) (amended by Chapter 89).

is \$50; a third violation is \$100; and any subsequent violation is \$250.⁵⁰ Each fine is also subject to a penalty assessment of 270%, increasing the fines to \$185, \$370, and \$925 respectively.⁵¹ Courts may reduce the fines for those who demonstrate an inability to pay.⁵²

IV. ANALYSIS

A. Proponent Arguments

Many California agencies strongly support Chapter 89.⁵³ Proponents believe that taking away a warning and increasing fines for misusing the 911 system will act as a deterrent, discouraging callers from intentionally using 911 for frivolous reasons and opening up the 911 phone lines for those who truly need emergency services.⁵⁴ Chapter 89 will have no impact on the number of unintentional phantom calls received by 911, focusing instead on deterring intentional non-emergency inquiries and prank calls.⁵⁵ According to Chapter 89's author,

50. *Id.* § 653y(a)(2)(A)-(C) (amended by Chapter 89).

51. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at K-M (June 10, 2008). Penalty assessments are required to fund certain projects and services run by the state. Different codes allocate a percentage of fines into a certain funding stream. Applicable penalty assessments to Chapter 89 include:

Penal Code 1464 Assessment: (\$10 for every \$10 in fines)

Penal Code 1465.7 Assessment: (20% surcharge)

Penal Code 1465.8 Assessment: (\$20 fee per fine)

Government Code 76000 Assessment: (\$7 for every \$10 in fines)

Government Code 70372 Assessment: (\$5 for every \$10 in fines)

Government Code 76104.6 Assessment: (\$1 for every \$10 in fines)

Government Code 7600.5 Assessment: (\$2 for every \$10 in fines).

E-mail from Scott Seekatz, Assembly Fellow, Office of Assembly Member John Benoit, Cal. State Assembly, to author (June 14, 2008, 13:35:00 PST) (on file with the *McGeorge Law Review*).

52. CAL. PENAL CODE § 653y(a)(2) (amended by Chapter 89).

53. Agencies that support Chapter 89 include the San Bernardino County Sheriff's Department, the Los Angeles County Sheriff's Department, the Los Angeles County District Attorney's Office, the California State Sheriff's Association, and the California Chapter of the National Emergency Number Association. *See* Letter from Gary S. Penrod, Sheriff, San Bernardino County Sheriff's Dep't, to John Benoit, Assembly Member, Cal. State Assembly (Apr. 8, 2008) (on file with the *McGeorge Law Review*) (expressing support for Chapter 89); Letter from Leroy D. Baca, Sheriff, L.A. County Sheriff's Dep't, to John Benoit, Assembly Member, Cal. State Assembly (May 2, 2008) (on file with the *McGeorge Law Review*) (same); Letter from Steve Cooley, Dist. Att'y, L.A. Dist. Att'y's Office, to John Benoit, Assembly Member, Cal. State Assembly (May 6, 2008) (on file with the *McGeorge Law Review*) (same); Letter from Nick Warner, Legislative Dir., Warner & Pank, LLC, *on behalf of* Cal. State Sheriff's Ass'n, to John Benoit, Assembly Member, Cal. State Assembly (May 28, 2008) (on file with the *McGeorge Law Review*) (same); Letter from Nick Warner, Legislative Dir., Warner & Pank, LLC, *on behalf of* Cal. Chapter of the Nat'l Emergency No. Ass'n, to John Benoit, Assembly Member, Cal. State Assembly (May 28, 2008) (on file with the *McGeorge Law Review*) (same).

54. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at H (June 10, 2008).

55. *Id.* at K (citing Senate COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 911, at N (June 1, 2004)). Because Chapter 89 does not change the effect of Section 653y and only raises fines, it similarly will have no impact on unintentional phantom calls. *See* ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at 5 (Apr. 15, 2008) ("This bill focuses on 911 calls made for any reason

Assemblymember John Benoit, “[o]ur current two-warning system does not effectively deter non-emergency 911 calls A one-warning approach will better deter this dangerous behavior by more immediately imposing significant sanctions upon illegal callers.”⁵⁶ The CHP alone takes over 800,000 non-emergency inquiry calls each year, so Chapter 89, if effectively implemented, could still significantly reduce the call volume at dispatch centers throughout California even though it does not address the problem of phantom calls.⁵⁷

B. Implementation and Enforcement Difficulties

1. Failure to Implement Current Law

Although no organization has officially opposed Chapter 89, the Senate Committee on Public Safety raised concerns that simply increasing citation fines would not prevent 911 misuse because it is unclear if the citation system under current law has ever been implemented.⁵⁸ The California Performance Review (CPR) recently found that “[w]hile state law provides for fines for individuals misusing 911 for non-emergency calls, it has never been implemented.”⁵⁹ Furthermore, the Senate Public Safety Committee Analysis stated that “[a]t the time of this writing, it is unclear what impact the current law that took effect in January 2005 has had on non-emergency 911 calls. Agencies contacted were not able to provide information on how many warnings or citations were given as that information was not readily available.”⁶⁰ Clearly, citations must be issued and enforced if Chapter 89 is to have any impact on 911 call volumes.⁶¹ However, if the citation system under current law is not implemented at 911 dispatch centers, simply raising fines will be ineffective.⁶²

other than an emergency and could include prank calls and non-emergency inquiry calls.”); SAMPSON, *supra* note 20, at 5 (suggesting that the phantom call problem can only be effectively resolved by working with the Federal Communications Commission and wireless carriers to eliminate automatic 911 dialing).

56. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at H (June 10, 2008).

57. *Id.* at K.

58. *Id.* at M.

59. CAL. PERFORMANCE REVIEW COMM’N, *supra* note 8, at 1403. Governor Arnold Schwarzenegger created the California Performance Review by Executive Order in 2004 to examine and assess the California state government and recommend reforms. “CPR’s mandate was to formulate and recommend practical changes to government agencies, programs and operations to reduce total costs of operations, increase productivity, improve services and make government more responsible and accountable to the public.” California Performance Review Questions and Answers, http://cpr.ca.gov/about_cpr/performance_review_q_and_a.html (last visited Jan. 1, 2009) (on file with the *McGeorge Law Review*).

60. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at K (June 10, 2008).

61. *See id.* at H (“A one-warning approach will better deter this dangerous behavior [of calling 911 for non-emergencies] by more immediately imposing significant sanctions upon illegal callers.”).

62. *See id.* at M (“Should the penalties for using 911 for a non-emergency call be increased when the impact of the existing law is unclear?”).

According to the CHP, implementation of the citation system under current law and Chapter 89 requires little effort or money.⁶³ “Technology is available in CHP Communication Centers that will allow dispatchers to be able to press a single key that flags a recording of a call as a non-emergency or nuisance call.”⁶⁴ At the end of a shift, dispatchers decide whether to forward the flagged non-emergency call information to their supervisors.⁶⁵ The supervisors then decide which cases of misuse to forward to CHP investigators, who determine if a warning or citation is necessary given the circumstances of each case.⁶⁶

2. *Technical Issues*

Enforcement of current law and Chapter 89, however, poses certain technical difficulties for 911 dispatch centers.⁶⁷ Different call centers maintained by different agencies within the state do not have compatible 911 systems.⁶⁸ For instance, the CHP system is not integrated with other state and local agencies.⁶⁹ There is no “interconnected network of 911 emergency answering systems” in California.⁷⁰ As a result, 911 dispatch centers are often unable to transfer call data and similar information to other dispatch centers.⁷¹ Due to this incompatibility, there is no centralized documentation system that can record phone numbers of callers who misuse the 911 system throughout California.⁷² The CPR suggested that the Office of California Emergency Communications in the Department of General Services standardize databases and develop data logging standards so that call centers can share data and information.⁷³

3. *Arbitrary and Inconsistent Enforcement*

Until a centralized documentation system is developed, it will be difficult, if not impossible, to track callers on a statewide basis who misuse the 911 system from different areas.⁷⁴ A non-emergency call received in Los Angeles can be documented at that particular dispatch center, but if the caller makes another non-

63. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 911, at I-J (June 1, 2004).

64. *Id.* at I.

65. *Id.*

66. *Id.*

67. *See* CAL. PERFORMANCE REVIEW COMM’N, *supra* note 8, at 1403-04 (describing inadequacies in the current CHP 911 dispatch system).

68. *Id.* at 1403.

69. *Id.*

70. *Id.* at 1404.

71. *Id.* at 1403.

72. *Id.*

73. *Id.* at 1405.

74. *See* SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 911, at E (June 1, 2004) (stating that in order to implement this bill, each communication center will have to “devise and implement their own internal systems for how to document non-emergency calls”).

emergency call in Sacramento, the Sacramento dispatch center will most likely be unaware of the first call in Los Angeles.⁷⁵ This documentation problem leads to concerns about arbitrary enforcement of Chapter 89.⁷⁶ Under Chapter 89, each individual agency has the discretion to issue a citation in each case of misuse.⁷⁷ Therefore, the law could be applied differently depending on which dispatch center receives the non-emergency call.⁷⁸ Furthermore, because there is currently no system in place to facilitate the sharing of data, one dispatch center could be issuing a third or fourth citation to a chronic non-emergency caller, but a different dispatch center could issue the same person a first warning because that center is unaware of the other calls.⁷⁹ This arbitrary and inconsistent enforcement could minimize Chapter 89's deterrent effect.⁸⁰

4. *Educating the Public*

Although a centralized documentation system would provide the most consistent enforcement of Chapter 89, individual dispatch centers can still issue the citations so that more callers become cognizant of the law's existence and the resulting ramifications of making non-emergency calls to 911.⁸¹ Chapter 89's text even suggests that dispatch agencies send educational materials about the 911 system together with the first warning citation.⁸² Using Chapter 89 as a tool to educate the public about what constitutes a true emergency and the consequences

75. CAL. PERFORMANCE REVIEW COMM'N, *supra* note 8, at 1403 ("Emergency 911 answering centers, called Public Service Access Points (PSAP), are not able to transfer data between different PSAP due to inadequate hardware and a lack of standard information format.").

76. See SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 911, at G (June 1, 2004) ("[D]iscretion will be used by local and CHP communication center dispatchers, dispatch supervisors, and investigators regarding which non-emergency inquiry calls should be cited as violations. It is unclear whether this discretion will allow for fair and uniform implementation of the law.").

77. CAL. PENAL CODE § 653y(a)(1) (amended by Chapter 89).

78. See SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at J (June 10, 2008) ("[The Committee Analysis of AB 911] raised concerns about the potential arbitrariness as to which non-emergency calls would be cited because the standards would be set by the individual agencies as to what non-emergency call would result in a warning or ultimately a citation.").

79. See CAL. PERFORMANCE REVIEW COMM'N, *supra* note 8, at 1403 ("Emergency 911 answering centers, called Public Service Access Points (PSAP), are not able to transfer data between different PSAP due to inadequate hardware and a lack of standard information format.").

80. See SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at H (June 10, 2008) (stating the author's opinion that the deterrent effect of Chapter 89 lies in the immediate imposition of significant sanctions on illegal callers).

81. See SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 911, at E (June 1, 2004) ("By making non-emergency calls to 911 an infraction and providing educational materials to first-time offenders, individuals that have a problem using the 911 system for frivolous calls can be better educated on its proper use.").

82. See CAL. PENAL CODE § 653y(a)(1) (amended by Chapter 89) ("The law enforcement agency may provide educational materials regarding the appropriate use of the 911 telephone system.").

of misusing 911 could effectively reduce the large number of non-emergency calls made to 911.⁸³

Educating the public is also necessary to avoid deterring those who use the 911 system in good faith. Some individuals may be dissuaded from calling 911 due to fear of incurring fines.⁸⁴ This fear may delay emergency assistance when a true emergency does exist.⁸⁵ Chapter 89 addresses this problem by providing that only those who “knowingly” abuse the 911 system are subject to fines.⁸⁶ Thus, those who call 911 under the mistaken but good faith belief that a true emergency exists will not be fined.⁸⁷ Informing the public that the law will not punish good faith 911 callers is crucial to preventing a potentially life-endangering deterrent effect.

C. A Statewide 311 System: A More Effective Alternative?

To bring about a successful reduction in non-emergency 911 calls, Chapter 89 could also be enforced concurrently with the development of a statewide 311 system.⁸⁸ In February 1997, the Federal Communications Commission (FCC) reserved 311 as a national voluntary number for non-emergency calls.⁸⁹ 311 systems can alleviate 911 call volumes by providing citizens with a memorable and easily accessible phone number to access government agencies and police departments in non-emergency situations.⁹⁰ In cities nationwide, 311 systems have significantly reduced the number of calls made to the 911 system.⁹¹ The

83. See SAMPSON, *supra* note 20, at 31 (suggesting that non-emergency calls to 911 could be reduced by educating the public about how to use 911 appropriately); ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at 5 (Apr. 15, 2008) (stating that CHP receives approximately 800,000 non-emergency calls a year and that almost half of the 911 calls made to the San Diego Sheriff's Department in 2001 were frivolous).

84. See ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at 9-10 (Apr. 15, 2008) (“If an individual is threatened by an actual emergency and he or she feels he or she might be subjected to penalties if the individual misuses the system, the individual may not call 911.”).

85. *Id.*

86. CAL. PENAL CODE § 653y(a) (amended by Chapter 89).

87. *Id.* § 7 (West 1999) (“The word ‘knowingly’ imports only a knowledge that the facts exist which bring the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such act or omission.”).

88. See CAL. PERFORMANCE REVIEW COMM’N, *supra* note 8, at 1403 (“To take the burden off the wireless 911 system, and to improve service to both residents and tourists, California should establish two call centers so that wireless callers can dial ‘311’ for their nonemergency calls.”); ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at 6 (Apr. 15, 2008) (“‘311’ has been proposed as an alternative for calls which might not fall into the ‘emergency’ category, but are nonetheless important.”).

89. U.S. DEP’T OF JUSTICE, 311 FOR NON-EMERGENCIES: HELPING COMMUNITIES ONE CALL AT A TIME, Nov. 8, 2007, http://www.cops.usdoj.gov/html/cd_rom/tech_docs/pubs/311forNonEmergencies.pdf (on file with the *McGeorge Law Review*).

90. *Id.*

91. *Id.* (stating that Baltimore, Maryland had a fifty percent reduction in 911 call volume after implementing a 311 system; Houston, Texas, had a fourteen percent decrease in non-emergency 911 call volume; and citizens in Florida were able to utilize 311 for information about services available after

CPR suggested that California implement a statewide 311 system.⁹² Currently, in California, only San Francisco, San Jose, Sacramento, Anaheim, Los Angeles, and Riverside have successfully implemented 311 systems.⁹³ The implementation of a statewide system may be inexpensive because it can use the same “communications backbone” as the 911 system.⁹⁴ Furthermore, it can utilize older 911 technology equipment that has been phased out, and dispatchers can be cross-trained to answer both 911 and 311 calls.⁹⁵ Establishing a statewide 311 system may be a cost-effective way to provide more citizen access to government services and information while keeping 911 telephone lines open to those who truly need emergency services.⁹⁶

V. CONCLUSION

The 911 system provides an invaluable service to those involved in dire situations by dispatching immediate emergency assistance.⁹⁷ Those who call 911 for information regarding non-emergencies threaten the system’s availability and efficiency.⁹⁸ Chapter 89 seeks to ensure that 911 telephone lines remain open for those in danger by increasing penalties for misuse or abuse of the 911 system.⁹⁹ Whether these penalties will be implemented or enforced in California remains in question.¹⁰⁰ If implemented, the penalties can ease the burden on 911 dispatchers by educating the public about what constitutes a real emergency and by raising funds to maintain and acquire more advanced 911 systems that can handle the

hurricanes).

92. See CAL. PERFORMANCE REVIEW COMM’N, *supra* note 8, at 1407-08 (discussing the need to implement at 311 system).

93. 311 Directory, State of California, <http://www.ca.gov/311directory.html> (last visited Jan. 1, 2009) (on file with the *McGeorge Law Review*).

94. CAL. PERFORMANCE REVIEW COMM’N, *supra* note 8, at 1408-09.

95. *Id.*

96. U.S. DEP’T OF JUSTICE, *supra* note 89.

97. See *Benoit Phony 911 Call Bill Heads to Senate*, *supra* note 33 (“911 is a critical emergency service that has provided life-saving support to Americans all over the country.” (quoting Assemblymember John Benoit)); CAL. PERFORMANCE REVIEW COMM’N, *supra* note 8, at 1403 (“The United States 911 system handles 500,000 calls daily or about 183 million annually.”).

98. See Lopez & Connell, *supra* note 15 (stating that partly due to callers making non-emergency calls to 911, nearly half the 911 calls to CHP in the Los Angeles area between January 2007 and July 2007 were abandoned because the caller hung up after not being able to reach a dispatcher because the lines were busy); CAL. PERFORMANCE REVIEW COMM’N, *supra* note 8, at 1403 (“CHP 911 operators are regularly overloaded during peak commute hours and callers often get a busy signal or are put on hold for up to ten minutes.”).

99. ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at 4-5 (Apr. 15, 2008).

100. See CAL. PERFORMANCE REVIEW COMM’N, *supra* note 8, at 1403 (“While state law provides for fines for individuals misusing 911 for non-emergency calls, it has never been implemented.”); SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1976, at K (June 10, 2008) (“At the time of this writing, it is unclear what impact the current law that took effect in January 2005 has had on non-emergency 911 calls. Agencies contacted were not able to provide information on how many warnings or citations were given as that information was not readily available.”).

rapidly increasing volume of calls from wireless phones.¹⁰¹ With this straightforward penalty system firmly in place, local law enforcement agencies and the CHP possess a tool to help fix the problems plaguing overwhelmed 911 dispatch centers. First, however, they must choose to use it.

101. See CAL. PERFORMANCE REVIEW COMM'N, *supra* note 8, at 1406 (suggesting that improvements to the 911 system in California may be partially funded by revenue generated by fines imposed on non-emergency calls); SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 911, at E (June 1, 2004) ("By making non-emergency calls to 911 an infraction and providing educational materials to first-time offenders, individuals that have a problem using the 911 system for frivolous calls can be better educated on its proper use.").