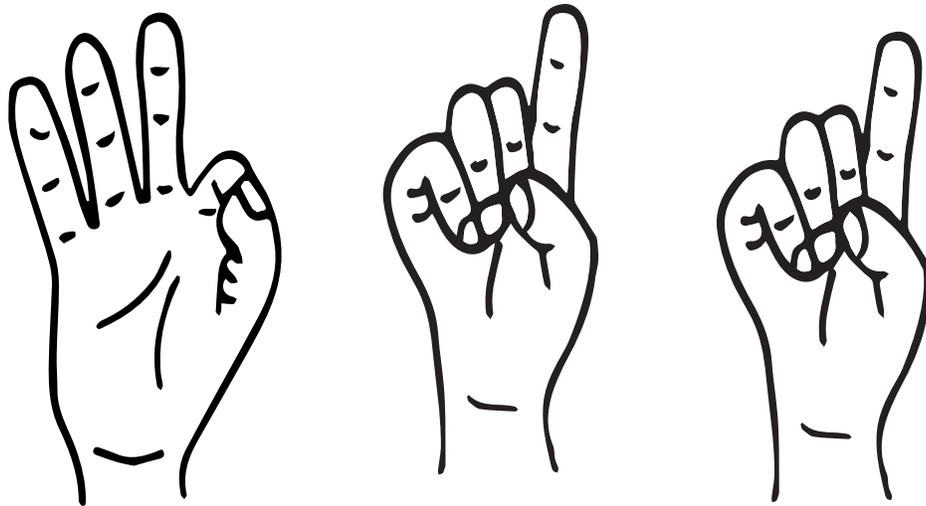


# CALL IF YOU CAN— BUT WHAT IF YOU CAN'T?

NYC MUST PROVIDE ACCESSIBLE  
EMERGENCY SERVICES.... NOW!



9-1-1

**NYLPI**

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## NYC: IMPLEMENT TEXT-TO-911 NOW!

New York City’s 911 emergency system is inaccessible to the Deaf and Hard of Hearing communities, as well as many other people with and without disabilities. Access to 911 is required by law and is critical to New Yorkers’ very lives. For years, New York City has expressed its intention to make Text-to-911 a reality. Text-to-911 is available in thousands of municipalities throughout the United States, and New Yorkers must also finally have access to it — especially as we face the COVID-19 health crisis, with 911 workers heroically responding to mounting calls from people who require emergency care. The New York City Department of Technology and Telecommunications and the other New York City agencies responsible for implementing Text-to-911 services<sup>1</sup> must provide frontline 911 workers the resources they need, while at the same time ensuring that *all* New Yorkers have access to critical 911 services.

New York Lawyers for the Public Interest calls upon New York City to implement Text-to-911 by the June 2020 deadline the City most recently set.

### WHAT IS TEXT-TO-911?

Text-to-911 is the ability to send a text message to reach 911 emergency services.<sup>2</sup> Since at least 2014, the United States Federal Communications Commission (FCC) has encouraged 911 emergency centers throughout the United States to accept text messages.<sup>3</sup>

“In light of the coronavirus pandemic crisis that is unfolding around the world, particularly in New York City, Text-to-911 is vital to the safety and health of the Deaf and Hard of Hearing community in New York. Smart phones with the ability to text emergency services are now ubiquitous, and the ability of Deaf and Hard of Hearing people to reach EMTs, police officers, and firefighters is within New York City’s power only if the authorities enable Text-to-911 connectivity. Anything short of that connectivity will be unacceptable and inexcusable, particularly given the crisis we all face today.”

— Professor Michael A. Schwartz, Associate Professor of Law, Disability Rights Clinic Director, Syracuse University School of Law

Text-to-911 makes 911 services accessible for people who are Deaf and Hard of Hearing. Text-to-911 also enhances the accessibility of 911 services for people with other communication disabilities, including people who stutter and people who are unable to speak temporarily during an asthma attack. Many others, such as those affected by crime, would also be greatly assisted by Text-to-911. New York City, which currently only has Call-in-911 services available, lags behind the other towns, counties, and cities throughout the United States that have already implemented Text-to-911 services.<sup>4</sup> New York City’s repeated delays to implement Text-to-911 have been both dangerous and discriminatory. Lives hang in the balance.

The Text-to-911 mantra coined by the National Emergency Number Association (NENA) is “call if you can, text if you can’t.”<sup>5</sup> Calling is still the primary option for 911 services, and texting is considered an alternative in various situations such as “where a victim must remain quiet due to the nature of an emergency.”<sup>6</sup> For example, in Nebraska, the first person to use the state’s Text-to-911 system was a woman reporting domestic abuse.<sup>7</sup>

While this report focuses on the effects of the City’s failure to provide the Deaf and Hard of Hearing communities and other people with disabilities access to 911, Text-to-911 is critical for everyone. Text-to-911 allows people to contact emergency services in situations where they are not able to make a phone call. This includes anyone confronting a situation where they must remain silent, such as a hostage situation, an active shooter, or domestic violence. This also includes people who have limited English proficiency and anyone else who simply texts more easily than they can call.

“We should have had Text 911 years ago, you’re right... [W]e should have it tomorrow. We should have had it yesterday, and it is life-threatening as you testified.”<sup>8</sup>

— Statement of New York City Council member Robert Holden at the November 12, 2019 City Council Hearing

After years of delay, including deadlines that have come and gone, and after years of advocacy, oversight proceedings, and litigation involving NYLPI and numerous community partners, New York City finally committed to implementing Text-to-911 in June 2020.<sup>9</sup> This report heralds the arrival of Text-to-911 in New York City by June 2020, and underscores its absolute indispensability.

**We must all join the call for New York City to implement Text-to-911 now!**

## WHY IS TEXT-TO-911 CRITICAL?

Text-to-911 is absolutely essential because Call-in-911 is plainly inaccessible to the Deaf and Hard of Hearing communities, as well as many other people with communication-related disabilities. Text-to-911 would finally make 911 services available for people who are Deaf or Hard of Hearing by eliminating the need to communicate using spoken language and by eliminating the need for an intermediary to receive responses from 911.

**There are many examples of lives saved as a result of Text-to-911:**

- In Oakland County, Michigan, which has had Text-to-911 since 2015,<sup>10</sup> a man who is Deaf sent the following text to 911: “I’m deaf, I can’t talk on the phone, need fire department immediately.”<sup>11</sup> The fire department arrived on the scene and saved the man’s house from burning down.

“When you call through a third party [through the relay] it’s very challenging for EMT or law enforcement to understand what’s going on. Most of the time they will hang up on you and think it’s not an emergency.”

— Testimony<sup>12</sup> of Nicolyn Plummer, Social Worker, Barrier-Free Living; member, Deaf Justice Coalition and; founding member, Court and Legal Interpreting Coalition

- In North Carolina, which has had Text-to-911 since 2013, a fifteen-year-old girl texted 911 to report that she had been repeatedly sexually assaulted by a truck driver.<sup>13</sup> The girl was able to give information via text that allowed emergency services to find her and arrest the truck driver.<sup>14</sup>
- In Hernando County, Florida, which has had Text-to-911 since at least 2017, a local woman texted 911 to report a home invasion.<sup>15</sup> Emergency services responded, made an arrest, and the woman escaped unharmed with her two children.<sup>16</sup>

## PEOPLE ALL OVER THE UNITED STATES ARE TEXTING TO 911.

Approximately 2,000 911 services across the United States, including 911 in New York’s Suffolk County, are equipped with Text-to-911, with more than 350 Text-to-911 services implemented in 2018 alone.<sup>17</sup> Approximately 80 percent of 911 calls in the United States come from cell phones.<sup>18</sup> Text-to-911 was first implemented in Black Hawk County, Iowa in 2009.<sup>19</sup> In 2014, Vermont was the first state to provide statewide coverage of Text-to-911.<sup>20</sup>

In 2016, the National Association of the Deaf brought federal claims against the State of Arizona regarding the state’s failure to provide Text-to-911.<sup>21</sup> In 2018, the matter settled, bringing the promise of Text-to-911 to every county in Arizona.<sup>22</sup> In just one year’s time, multiple counties in Arizona have implemented Text-to-911.<sup>23</sup>

“When [our client who is Deaf] was in a car accident this August ... she had to leave her car and find a pedestrian to make the call for her.... Many folks, due to cognitive issues, traumatic brain injury, post-traumatic stress disorder, or other disabilities are not able to process and verbally respond to the questions an operator is required to ask ... but they are able to type.”

— Testimony of Marc J. Fliedner, Director, Disability Rights New York

Notably, other call-in services in New York City have already implemented a text-based communication option. For example, in 2011, New York City implemented Text-to-311 to complement the City’s 311 information service.<sup>24</sup> People can reach 311 by texting 311-692.<sup>25</sup> New Yorkers have been able to contact NYC-Well, New York’s mental health hotline, by text since its inception in 2016.<sup>26</sup> In fact, people’s entire conversations with NYC-Well representatives can take place via text.<sup>27</sup> People can also contact various City and State agencies by texting 711, which results in a translator relaying the message in voice to the dispatcher.<sup>28</sup> However, 711 is explicitly not for emergency services.<sup>29</sup>

These examples are not unique. Text-to-911 benefits everyone and makes our communities safer. As New Yorkers testified before the New York City Council Committee on Public Safety, Committee on Technology, and Committee on Fire and Emergency Management on November 12, 2019, every day without Text-to-911 presents risks to New Yorkers.

## NEW YORK CITY’S CHAOTIC HISTORY OF ATTEMPTING TO ESTABLISH TEXT-TO-911

New York City first implemented emergency 911 services in 1968, before there were cell phones.<sup>30</sup> As such, 911 emergency services systems were originally developed for landline telephones, and not for the technology we have available today. Major efforts to modernize New York City’s 911 services began in the 1990s,<sup>31</sup> including renovating borough offices, building a back-up 911 call center adjacent to One Police Plaza, and updating the City’s computer-aided dispatch systems.<sup>32</sup>

“Some people who stutter experience increased difficulty speaking in situations when time is of the essence. It’s also not uncommon for people who stutter to experience heightened difficulties referring to proper nouns such as names and places. These communication challenges, while inconvenient in everyday life, can be life-threatening in a true emergency.”

— Testimony of Christopher Schuyler, NYLPI Senior Staff Attorney, Brooklyn Chapter Leader, National Stuttering Association; and Planning Team Member, New York City Stutters Conference

In the aftermath of the attack on the World Trade Center on September 11, 2001, New York City moved to consolidate and modernize its emergency 911 services by establishing a back-up facility, improving data-sharing among City agencies, and enhancing coordination and deployment of resources during emergencies.<sup>33</sup> In 2004, following extensive delays and burgeoning costs, then-Mayor Michael Bloomberg launched the “Emergency Communications Transformation Program.”<sup>34</sup> Although the City had already long been required under federal, state, and local anti-discrimination laws to make all services accessible for people with disabilities, Mayor Bloomberg’s program did not address access to 911 services for New York City’s Deaf and Hard of Hearing communities or for those with other communication-related disabilities.

New York City’s Department of Investigation issued a report in 2015 highlighting numerous deficiencies in the City’s 911 services and offering recommendations. Notwithstanding extensive advocacy efforts by the disability community, the issue of Text-to-911 was not even mentioned in the report, let alone made a part of the recommendations.<sup>35</sup> The New York City Council also held a hearing in 2015 regarding 911 services – but once again, it appears that Text-to-911 was not discussed.<sup>36</sup>

In 2017, New York City officials finally promised to launch Text-to-911 by early 2018, but efforts to implement Text-to-911 continued to stall.<sup>37</sup> In 2017, advocates also filed litigation demanding access to 911 for the Deaf community.<sup>38</sup>

“It’s not simply just accommodations, but we would like to participate equally and to be effective in society, not to be ignored. We don’t want sympathy, we want support.”

– Greg Hlibok, 1988-89 Student Body President of Gallaudet University<sup>39</sup>

As *The City* recently reported while noting “bugs” in the Text-to-911 technology identified in December 2018 and January 2019, “New York City’s long-promised 911 texting system has been stalled by a bitter dispute between technology agency officials and the NYPD – with each blaming the other for delays.”<sup>40</sup> The City beta-tested the Text-to-911 technology in July 2019,<sup>41</sup> and as of February 2020, City officials have been committed to a June 2020 launch.<sup>42</sup>

In the words of New York City Council Member Donovan Richards at the November 12, 2019 City Council Hearing on the topic, “Whatever the cause of the delay is, texts to 911 services are too important to let this get caught in a bureaucratic maze.”<sup>43</sup>

## IT’S THE LAW!

Longstanding federal, state, and local anti-discrimination laws have required that all of New York City’s services, including emergency 911 services, be accessible to people with disabilities. New York City’s failure to implement accessible 911 services is ongoing disability discrimination against people who are Deaf, Hard of Hearing, or have other disabilities.

The New York State Human Rights Law (“NYSHRL”) and the New York City Human Rights Law (“NYCHRL”), as well as federal law, have prohibited disability discrimination for decades.<sup>44</sup> These laws apply to emergency 911 services, and all other services New York City provides,<sup>45</sup> and advocates have successfully used the NYCHRL to demand meaningful and equal access to other New York City emergency services for people with disabilities.<sup>46</sup> When the ADA was first enacted in 1990, members of Congress specifically stated that the ADA required emergency services

“When seconds count, do you really want your words relayed through a translator?”

— Testimony of Luci Joe Smith, community member

to be accessible to the Deaf and Hard of Hearing communities.<sup>47</sup>

New York City has also been sued multiple times by advocates attempting to force the City to make 911 accessible to the Deaf community.<sup>48</sup> Two of these lawsuits are particularly instructive for where we are now.

In 2010, disability advocates successfully sued to halt New York City’s attempts to de-activate “street alarm boxes.” The street alarm boxes are equipped with two buttons: a red one for fire service and a blue one for police service. In defending against the lawsuit, New York City claimed that people who are Deaf or Hard of Hearing should instead use public pay telephones to report an emergency from the street, using a “tapping protocol,” similar to Morse Code. The resulting court orders from this lawsuit mandated that the alarm boxes be retained on New York City’s streets.<sup>49</sup> However, alarm boxes alone are not sufficient to provide meaningful access to 911 for Deaf and Hard of Hearing communities. Only some people are aware of them, their placements are few and far between, and they are helpful only if the person happens to be near one.

Most recently, in a 2017 lawsuit, Disability Rights New York (DRNY) filed a complaint in federal court against New York City for failing to make its 911 services accessible to people who are Deaf and Hard of Hearing.<sup>50</sup> The lawsuit is pending, and New Yorkers continue to await accessible services.

“Individuals who have deafness or have hearing loss, or have disabilities that impair their speech and communication, cannot report crimes, fires, motor vehicle accidents, or medical emergencies via text, placing these individuals and others at risk by delaying their access to emergency services.”

– *Logerfo v. City of New York*<sup>51</sup>

## EVERYONE BENEFITS FROM TEXT-TO-911.

As is often the case with accessibility issues, the services people with disabilities need (and government agencies are required to provide) also benefit society at large.

For example, during an active shooter incident, calling 911 and speaking with an operator on the phone is incredibly dangerous. There have been multiple mass shootings in recent years which tragically demonstrate this hazard. For example, during the 2018 Pulse nightclub mass shooting in Orlando, people texted friends and family members for help, afraid that a phone call would alert the shooter.<sup>52</sup> Likewise, during the February 2018 mass shooting in Parkland, Florida, students texted their families for help.<sup>53</sup> Notably, Broward County, Florida, where Parkland is located, implemented Text-to-911 services shortly after the Parkland violence.<sup>54</sup>

Text-to-911 could also be lifesaving during domestic violence incidents, where the survivor needs to discreetly contact emergency 911 services. The same applies to home invasions or any other dangerous situation where someone needs to be discreet or remain silent.

Text-to-911 can also help people who have limited English proficiency but can text simple words such as the name of a location to a 911 center.

During an emergency, when time may be of the essence, Text-to-911 could save lives.

“Nowhere is the ability to hear more important than in an emergency... [and] the inability to report endangers everyone – the affected individual as well as others in the area.”

— Testimony of Katherine Bouton, President, New York City Chapter of the Hearing Loss Association of America

In 2019, where many people text more easily than they can make a phone call, Text-to-911 can benefit everyone!

## DO IT NOW!

New York Lawyers for the Public Interest stands with the Deaf, Hard of Hearing, and other disability communities in the fight for accessible 911 services in New York City. We see no justification for New York City to further delay implementing Text-to-911, especially since the existing 911 system has been under scrutiny for modernization and adjustment for well over a decade. Critically, failure to provide accessible emergency services, such as Text-to-911, violates federal, state, and local anti-discrimination laws. People's very lives are at stake!

### **New York City must take the following steps immediately:**

- Implement Text-to-911
- Broadly advertise Text-to-911<sup>55</sup>
- Educate the public about how to use Text-to-911<sup>56</sup>
- Provide frontline 911 workers the resources they need to confront mass crises, such as the COVID-19 pandemic
- Provide intensive training to all 911 employees, including training in Deaf culture and interaction with the Deaf community and other people with disabilities
- Regularly monitor Text-to-911 for quality assurance
- Provide regular written reports to the public regarding the successes and failures of Text-to-911

“I had a Deaf client who was brutally beaten by her boyfriend in Brooklyn. Unable to call 911, she took a bus from Brooklyn to my office in Staten Island where she could communicate in ASL, and where I helped her make a police report.”

— Testimony of Genna Teitelbaum, Senior Staff Attorney, Staten Island Legal Services; and member, Deaf Justice Coalition

## ABOUT NEW YORK LAWYERS FOR THE PUBLIC INTEREST

New York Lawyers for the Public Interest is a community-driven, multidisciplinary civil rights organization founded in 1976. NYLPI is guided by the priorities of the communities with which we work, as we strive to achieve equality of opportunity, self-determination, and independence for people with disabilities, create equal access to health care, fight racism, ensure immigrant opportunity, invigorate local nonprofits, and defend environmental justice for low-income communities and communities of color.

NYLPI's Disability Justice Program has represented thousands of people and triumphed in countless campaigns that have improved the lives of New Yorkers with disabilities. Access to government services for people with disabilities is a critical part of our work. NYLPI represents the Deaf and Hard of Hearing communities, as well as others in the broader disability community in matters involving the need for access and reasonable accommodations. We have represented clients whose medical providers failed to provide interpreter service during medical appointments, and have advocated for the New York Police Department to provide interpreters during interactions with the Deaf community. In response to patterns of discrimination against members of the Deaf community, NYLPI in 2010 helped convene a coalition of organizations — the Deaf Justice Coalition — to identify communication and cultural barriers, organize with the Deaf community and advocates, and develop legal and legislative responses to pervasive failures by New York City government with respect to the Deaf community.

“What would happen if I was on the subway and my Deaf friend had a seizure? ... I wouldn't be able to contact 911.”

— Testimony of Dennis Martinez, Advocate, Harlem Independent Living Center

For more information, please visit NYLPI's website at [www.nylpi.org](http://www.nylpi.org), follow us on Twitter (@nylpi) and Facebook, or email Maureen Belluscio, NYLPI Senior Staff Attorney, at [mbelluscio@nylpi.org](mailto:mbelluscio@nylpi.org).

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"I called 911 and because I could not understand, they kept yelling--which only made it more difficult for me to understand, especially in an emergency situation, when you're trying to get to a hospital."

— Testimony of Lourdes Rosa-Carrasquillo, Director of Advocacy, Center for the Independence of the Disabled of New York

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46 In *Brooklyn Center for Independence of Disabled v. Bloomberg*, 980 F. Supp. 2d 588, 650 (S.D.N.Y. 2013), the court held that the City's emergency preparedness program failed to sufficiently accommodate the needs of people with disabilities in evacuating buildings and accessing the City's services after an emergency, in violation of Title II of the ADA, Section 504, and the NYCHRL.

47 H.R. Rep., No. 485, Part 2, 101<sup>st</sup> Cong., 2d Sess. (1990) at 84, 85. See also *Alexander v. Choate*, 469 U.S. 287, 304, 105 S. Ct. 712, 83 L. Ed. 2d 661 (1985).

48 In *Green v. City of New York*, 465 F.3d 65, 85 (2d Cir. 2006), the Second Circuit reversed the dismissal of a claim alleging discrimination pursuant to the NYSHRL when emergency personnel from the New York City fire and police departments failed to accommodate the non-verbal communication of a person with a disability who was refusing medical assistance. More recently, in *Williams v. State of New York*, 121 F. Supp. 3d 354, 363-69 (S.D.N.Y. 2015), the court held that the NYSHRL, along with Title II of the ADA and the NYCHRL, applied to police interactions where the police failed to provide an American Sign Language interpreter or any auxiliary aid to effectively communicate with a Deaf or Hard of Hearing person. Accordingly, the Court held that the City’s responsibility to provide any accommodation to people who have hearing impairments cannot be limited.

49 *Civic Assn. of the Deaf of N.Y. City, Inc. v. City of N.Y.*, 2011 U.S. Dist. LEXIS 90645 (S.D.N.Y. August 12, 2011).

50 *Logerfo v. City of New York*, No. 2:17-CV-00010. (E.D.N.Y. January 3, 2017).

51 *Id.*

52 Michael Sallah, Monique O. Madan, Mary Ellen Klas, and Glenn Garvin, *What happened between 2 and 5 a.m.? The Orlando massacre, minute by minute*, MIAMI HERALD (June 21, 2016), <https://www.miamiherald.com/news/state/florida/article84076637.html>.

53 Anne Geggis, Lisa J. Huriash, and Erika Pesantes, *Texts capture heartbreaking farewells as Parkland students hid from shooter*, SUN SENTINEL (March 9, 2018), <https://www.sun-sentinel.com/local/broward/parkland/florida-school-shooting/fl-florida-school-shooting-text-messages-20180307-story.html>.

54 Howard Cohen, *Broward Joins 32 Other Florida Counties with Text-to-911*, GOVERNMENT TECHNOLOGY (April 3, 2019), <https://www.govtech.com/public-safety/Broward-Joins-32-Other-Florida-Counties-with-Text-to-911.html>.

55 Jurisdictions that have conducted public education campaigns include Massachusetts and West Palm Beach. See Monica Ricci, *You can now text 911 in Massachusetts*, 22News WWLP (December 24, 2018), <https://www.wwlp.com/news/massachusetts/you-can-now-text-911-in-massachusetts/>. See also City of West Palm Beach, *911: Call If You Can, Text If You Can't*, available at <https://vimeo.com/277101309>.

56 *Id.*