

## One Call Away: 911 Abuse as a Weapon Against Minorities

by Jameesha Rock

The phenomenon of white people calling the cops on minorities in non-emergency situations has become viral on popular social media and new sources around the nation. In each of these incidents, mostly African-Americans, are going about their day: barbecuing at a park,<sup>1</sup> moving into a new apartment,<sup>2</sup> or even playing golf.<sup>3</sup> While these individuals try to partake in these activities, a white caller dials 911 and reports ‘suspicious activity.’ Law enforcement then arrives at the scene and use their police power to relegate minorities to a status of inferiority.

Citizens have shared their outrage that law enforcement is called on people as a basis of racial discrimination. Many white citizens who have made false reports on minorities have yet to be sanctioned for their clear misuse of emergency response personnel. Instead, cops who respond to the false claim often act as mediators between the disputing parties, or they try to assure the white individual that the black party is

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<sup>1</sup>Christina Zhao, ‘BBQ Becky,’ *White Woman Who Called Cops on Black BBQ, 911 Audio Releases: ‘I’m Really Scared! Come Quick!’*, <https://www.newsweek.com/bbq-becky-white-woman-who-called-cops-black-bbq-911-audio-released-im-really-1103057>, (last visited March 12, 2019.)

<sup>2</sup>Eli Rosenberg, *A Black Former White House Staffer was Moving into a New Apartment. Someone reported a Burglary*, *The Washington Post*, May 1, 2018, <https://www.washingtonpost.com/news/post-nation/wp/2018/05/01/a-black-former-white-house-staffer-was-moving-into-a-new-apartment-someone-reported-a-burglary/>, (last visited March 12, 2019.)

<sup>3</sup>*Man who called police on black golfers: No weapons involved “other than her mouth,”* CBS News, June 1, 2018, <https://www.cbsnews.com/news/grandview-golf-club-man-who-called-police-on-black-women-golfers-denies-racism/>, (last visited March 12, 2019.)

not a threat. This act of calling 911 to make a false report of danger or threat intrudes on the black party's privacy and could lead to a potentially dangerous situation. On August 5, 2014, John Crawford III, a black man, died when responding officers shot him for carrying a BB gun that he took from one of the shelves in an Ohio Walmart.<sup>4</sup> Crawford was casually carrying the BB gun in the store and was peacefully browsing in the pet section, when someone called 911 to report a false emergency. The white patron claimed that Crawford was holding a gun and aiming at fellow shoppers. At one point, he stated Crawford was pointing the gun at two children. Police officers immediately responded to the call and fatally shot Crawford in the pet section. The false report resulted in this young man's premature death. Falsely reporting a non-emergency situation to the cops can lead to detrimental effects. This leads us to the question on how we can resolve the issue of police officers being called to the scene where no crime has taken place, except one of the parties simply has the wrong skin color.

Our legal system must find a solution for victims of false reports made by individual actors in order to prohibit an invasion of privacy. Every state currently has statutes on 911 misuse to reduce false requests of police enforcement and emergency assistance. Florida's Statute on 911 Misuse reads:

*Misuse Of 911 Or E911 System<sup>5</sup>; Penalty* -911 and E911 service must be used solely for emergency communications by the

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<sup>4</sup>Dan Good, *Walmart Shopper Who Called 911 could be Charged After Deadly Ohio Police Shooting*, Daily News, April 7, 2016, <https://www.nydailynews.com/news/national/ohio-walmart-shopper-called-911-charged-article-1.2592305>, (last visited March 12, 2019.)

<sup>5</sup>*Florida Statute 365.172(13)*, [http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0300-0399/0365/Sections/0365.172.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0300-0399/0365/Sections/0365.172.html), (last visited March 12, 2019.)

public. Any person who accesses the number 911 for the purpose of making a false alarm or complaint or reporting false information that could result in the emergency response of any public safety agency; any person who knowingly uses or attempts to use such service for a purpose other than obtaining public safety assistance; or any person who knowingly uses or attempts to use such service in an effort to avoid any charge for service, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. After being convicted of unauthorized use of such service four times, a person who continues to engage in such unauthorized use commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, if the value of the service or the service charge obtained in a manner prohibited by this subsection exceeds \$100, the person committing the offense commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Nevertheless, many citizens are unaware that they should only dial 911 in a case of an emergency situation due to the fact that there is no clear standard to determine which situation constitutes a real emergency. Consequently, there is no clear standard for punishing those who misuse calling 911. For this reason, there are few arrests and minimal cases on 911 misuse. Often, many first-time offenders are given a simple warning for their misconduct. Repeated offenders punished for the crime of 911 abuse are only arrested if they have a history of making calls with an intent to abuse the system. In rare instances, an offender may be punished at the responding officer's discretion.

In the case of *Ohio v. Johnigan*, Lizzie Johnigan was charged with “[T]elecommunications harassment, in violation of R.C. 2917.21(A)(1);

making false alarms, in violation of R.C. 2917.32(A)(2); and making false alarms, in violation of R.C.G.O. 137.12(A), all misdemeanors of the first degree, stemming from a 911 disconnect call to the Dayton Police Department.”<sup>6</sup> On September 24, 2002, the Dayton Police Department dispatch officer received a phone call from someone who had failed to state their name or the reason for the call before hanging up. When a caller fails to identify themselves or their state of emergency, the call automatically becomes a top priority and the police must do their due diligence in order to find the location from which the call was made. The police found that the call was made from a landline phone registered to a Daroyl Goodman located at 3201 Palmerston Avenue in Dayton, Ohio.<sup>7</sup> After the responding officer was dispatched to the scene, he spoke to Johnigan who stated that she had been renting the residence for almost six years from Goodman. Johnigan denied calling 911 and further stated that she was unaware of any emergency situation. She then claimed that she was having phone troubles. Records showed that there had been an extensive amount of non-emergency phone calls to 911 from the property before. Regardless of this fact, Johnigan was acquitted for her false alarm charges during her trial. The court of appeals then dismissed her case of telecommunication harassment. The court stated that they could not “conclude that the state met its burden of establishing beyond a reasonable doubt that Johnigan had placed the harassing call to the Dayton Police Department.”<sup>8</sup>

Johnigan’s case clearly showcases how hard it is to convict someone for 911 misconduct. The state must provide proof beyond a reasonable

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<sup>6</sup>*State of Ohio v. Johnigan*, Case No. 19734, 02 CRB 12490, Jan. 23, 2004, <https://cases.justia.com/ohio/second-district-court-of-appeals/2004-ohio-260.pdf?ts=1396139429>, (last visited March 12, 2019.)

<sup>7</sup>*Id.*

<sup>8</sup> *Id.*

doubt that the person intended to place a phone call with the intent to harass the police department. As a result, charges for 911 misuse are often dropped and the abusers rarely ever face any punishments. In the case of *Ohio v. Link*, Wayne Link knowingly misused 911 emergency systems. On August 31, 2002, Link dialed 9-1-1 with the intent to report a false emergency in violation of Section 4931.49(D) of the Revised Code of Ohio.<sup>9</sup> Link called Knox County Police Department at around 3:12 a.m., stating “We need a new sheriff,” and then abruptly hung up the phone.<sup>10</sup> The Knox County Police then arrested Link on the charges of 911 abuse and took him to court. The Mount Vernon Municipal Court issued a judgment that dismissed the case and let Link go free of the charge. After reviewing case law on the subject of 911 Misuse, the court drew the following conclusion,<sup>11</sup>

“Revised Code Section 4931.40(E) defines ‘Emergency Service’ as emergency police, firefighting, ambulance, rescue and medical service. In the instant case, the Court finds that the Defendant called to make a complaint, not to request ‘emergency service.’ Even if the State could convince a jury beyond a reasonable doubt that the report was false, the Court finds that the Defendant would not be guilty of the offense charged. If the State wishes to criminalize the use of the 9-1-1 for making any non-emergency calls, the legislature must revise the statute.”

Criminalizing 911 abuse offenses is quite a difficult task for the state. To punish 911 abuse, the state’s legislators must revise their statutes on

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<sup>9</sup>*State of Ohio v. Link*, 155 Ohio App. 3d 585, 2003, <https://cases.justia.com/ohio/fifth-district-court-of-appeals/2003-ohio-6798.pdf>, (last visited March 12, 2019.)

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

911 Misuse. However, it is not a top priority for legislators to revise statutes to prevent non-emergency calls to dispatchers. Calls that are considered misuse can be divided in several categories; for instance, unintentional calls when a patron misdials 911 and hangs up immediately once they realize their mistake. Some callers can exaggerate a situation that is not an emergency in order to use police resources. Other forms of misuse can be children participating in prank calls or mentally ill citizens that do not realize their call is misconduct under their state's statute. How can the state punish 911 misconduct across the board when many individuals are not aware that they are abusing the system? To solve this issue the state must prove beyond a reasonable doubt that the person knowingly and intentionally dialed 911 to report a false emergency. Furthermore, the state must decide misconduct on a case-by-case basis to ensure the individual intentionally engaged in conduct to misuse of 911 services.

There have been cases of 911 misuse, in which a white individual calls the police on a black individual to report miscellaneous activities such as checking out of an Airbnb<sup>12</sup> or taking a nap in their university's dormitory common area.<sup>13</sup> In such cases, can police officers prove beyond a reasonable doubt the caller knowingly misused 911 with malicious intent? How can police decipher that there is no real emergency or criminal activity in those situations? Most importantly,

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<sup>12</sup>Marwa Eltagouri, *A Woman Called 911 about Burglars at her Neighbor's House, they were Black Airbnb Guests*, The Washington Post, May 8, 2018, [https://www.washingtonpost.com/news/business/wp/2018/05/08/a-woman-called-911-about-burglars-at-her-neighbors-house-they-were-black-airbnb-guests/?utm\\_term=.96461707b8c7](https://www.washingtonpost.com/news/business/wp/2018/05/08/a-woman-called-911-about-burglars-at-her-neighbors-house-they-were-black-airbnb-guests/?utm_term=.96461707b8c7), (last visited March 12, 2019.)

<sup>13</sup>Brandon Griggs, *A black Yale graduate student took a nap in her dorm's common room, so a white student called police*, CNN, May 12, 2018, <https://www.cnn.com/2018/05/09/us/yale-student-napping-black-trnd/index.html>, (last visited March 12, 2019.)

are states willing to severely punish the discriminating actions of calling 911 personnel on black people?

The act of calling law enforcement on minorities when no real threat or emergency has occurred is not a recent practice. The policing of black bodies and weaponizing police officers against minorities is part of American history. During the era of slavery, whites had reduced blacks to tools for slavery and set policing systems to dominate them. Biases then emerged from the concept of perceiving slaves as nonhumans and using dark skin as a moniker of inferiority. When slavery ended, white supremacists feared that emancipated blacks would revolt violently against their former masters. The irrational fear that blacks could no longer be controlled by white authority alarmed many white citizens. After slavery ceased, “white southerners felt a greater need for policing emancipated blacks, since in their minds slavery itself had been the most effective means of controlling and civilizing a ‘barbarous people.’<sup>14</sup>

The emergence of using police forces as a tool to remove emancipated blacks became a common tactic for white citizens. “Freed blacks that made their way from southern plantations to southern and northern cities”, discovered that their presence alone triggered a subliminal urge for whites to police, monitor, and try to keep blacks under control.<sup>15</sup> A system of policing blacks was enacted to keep them in an inferior status. Legal safeguards like the Black Codes and Jim Crow laws governed the behavior of blacks and excluded them from “white spaces.” The large scale policing rights reinforced the pathology of

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<sup>14</sup>Homer Hawkins and Richard Thomas. *White Policing of Black Populations: A History of Race and Social Control in America*, 2013, Routledge Revivals: Policing Black People.

<sup>15</sup> Id.

white racism and endowed whites with the power to exercise or abuse their superiority as they deemed fit.<sup>16</sup> The policing of black bodies created a tremendous influence on whites to criminalize blackness. The evolving perceptions of blacks has linked criminal behavior as an inherent trait of blackness.

Looking back at America's racial history, we must consider that the majority of these 911 abuse calls could be motivated by racial bias towards minorities. White citizens weaponized their racial intolerance and try to force non-whites out of public spaces. In the case of *Nelson v. Bahama Breeze Holdings, LLC*, twenty-five African-American women filed a lawsuit against Bahama Breeze Holdings, Inc. for racial discrimination and making a false police report under Ohio state law.<sup>17</sup> Plaintiff Diana Nelson, an African-American author wanted to host a celebration for her recent book deal and upcoming move to another state with her fellow post-graduate sorority members. Nelson decided to host her private party at Bahama Breeze in Cleveland, Ohio on June 19, 2018.

The staff of Bahama Breeze greeted and served the party with marked hostility. Nelson and her party were not served in a timely fashion nor provided with a sufficient amount of staff to accommodate all of their needs. The managers on duty, Frances Skupnik and Devin Jenkins, treated Nelson and her guests with dismissive attitudes and did not apologize for any inconveniences. From the moment Ms. Nelson's party was seated in their private area, Jenkins told the guests, "You and

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<sup>16</sup> Id.

<sup>17</sup>Ed Carroll, *Lawsuit filed over Bahama Breeze incit*, Cleveland Jewish News, Sept. 13, 2018, [https://www.clevelandjewishnews.com/news/local\\_news/lawsuit-filed-over-bahama-breeze-incident/article\\_1975d462-b757-11e8-ab39-9bbb6e8e9715.html](https://www.clevelandjewishnews.com/news/local_news/lawsuit-filed-over-bahama-breeze-incident/article_1975d462-b757-11e8-ab39-9bbb6e8e9715.html), (last visited March 12, 2019.)

your people cannot leave out of this room for anything.”<sup>18</sup> Later during the evening, Skupnik called Orange Village Police Department and falsely reported that the group of women were being unruly and were threatening to walk away from the restaurant without paying for their meals.<sup>19</sup> After police arrived at the scene, Nelson and her party were forced to stay in their private patio area and show proof of purchase for their meal. Nelson and her party guests were treated like criminals and beyond humiliated during their time at Bahama Breeze.

Rashon Nelson and Donte Robinson faced a similar experience when a Starbucks manager called the cops on the two men while they waited for a business meeting in Philadelphia, Pennsylvania. The two men occupied a table without purchasing anything, a common practice at many franchise locations.<sup>20</sup> The manager falsely reported to Philadelphia Police Department that the two men refused to leave and were trespassing the premises. This resulted in the two men being arrested and escorted out of the restaurant. Fortunately, the men were not charged for any crimes and reached a financial settlement with the Starbucks Corporation.

What can individuals do when a white individual, not affiliated with a corporation, makes a false report to police officers? When using privately owned places for public accommodation, discrimination is

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<sup>18</sup>Id.

<sup>19</sup> Id.

<sup>20</sup>Yon Pomrenze and Darran Simon, *Black men arrested at Philadelphia Starbucks reach agreements*, CNN, May 2, 2018,

<https://www.cnn.com/2018/05/02/us/starbucks-arrest-agreements/index.html>, (last visited March 12, 2019.)

prohibited under Title II of the Federal Civil Rights Act of 1964,<sup>21</sup>

42 U.S.C. §2000a (a) - All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination on the ground of race, color, religion, or national origin.

This provision of Title II does not apply to private clubs or individual actors who racially discriminate against minorities. For example, it is not a crime or a violation of any civil statute for an individual to be racist or make racist comments. Laws cannot regulate an individual's personal bias against a certain group or change their perceptions. The law, however, can regulate the actions individuals take against certain groups of people because of their bias. Can it, therefore, be possible to criminalize white people calling the police to falsely report minorities' actions as threatening or criminal? White individuals are taking the action of falsely reporting crimes because of their personal bias against a certain group. White callers know that their false report will cause some effect on the individuals they report. The false report is used as a weapon against minorities, whether it may lead to a warning, arrest, or removing minorities from the premises. Thus, it can be a criminalized action to falsely report minorities and call the cops in a non-emergency situation. White callers may know that some form of action will be taken against the minority group by law enforcement.

New York Senator Jessie Hamilton proposed a solution to end racially

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<sup>21</sup>*Title II of the Civil Rights Act*, U.S. Department of Justice, <https://www.justice.gov/crt/title-ii-civil-rights-act-public-accommodations>, (last visited March 12, 2019.)

charged false reports on August 15, 2018. Senator Hamilton announced his proposal of the “911 Anti-Discrimination/Anti-Harassment Legislation” which would differentiate racially motivated false reports and increase the penalties for such reports made with clear intent to falsely report.<sup>22</sup> Senator Hamilton’s proposed bill would add racially motivated false reporting to the list of hate crimes to hopefully deter the amount of calls to law enforcement. Citizens who make a false report to 911 solely based on “an individual’s race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation” can be held accountable under this act.<sup>23</sup>

Senator Hamilton’s solution may raise some issues with freedom of speech. People should be able to call the police if they do have a concern. Individuals may fear that now their freedom of speech and right to call the police is infringed upon if the bill is passed in New York. Critics of this bill state that Senator Hamilton cannot punish individuals for their racial bias or make it a crime to call 911. Senator Hamilton has responded that he is simply criminalizing false reports that are racially motivated out of malice and hate.<sup>24</sup> In addition, officers must assess if the false report was made with malicious intent and show that the caller knew that there was no real emergency. As stated above, 911 abuse cases do not undergo many arrests and often the burden falls

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<sup>22</sup>Jesse Hamilton, *Sen. Jesse Hamilton Announces 911 Anti-Discrimination, Anti-Harassment Legislation in Wake of Living While Black Incidents in Brooklyn and Across the Country*, N.Y. Senate, Aug. 15, 2018,

<https://www.nysenate.gov/newsroom/press-releases/jesse-hamilton/senator-jesse-hamilton-announces-911-anti-discrimination-anti>, (last visited March 12, 2019.)

<sup>23</sup> *Id.*

<sup>24</sup> Colin Mixson, *Pol wants harsher penalties for filers of racially biased, false police reports*, Brooklyn News, Aug. 16, 2018,

<https://www.brooklynpaper.com/stories/41/33/all-hamilton-911-anti-discrimination-law-2018-08-17-bk.html>, (last visited March 12, 2019.)

on the state to prove beyond a reasonable doubt that the caller intended to misuse 911 services.

Hamilton's 911 Anti-Discrimination bill may face challenges. However, there should be a remedy to solve the problem of individuals calling the cops on minorities who are guilty of nothing more than simply participating in everyday life. These calls disrupt one's day and can be traumatizing for victims of false reports. Other calls can result in dangerous situations if the police are misinformed by the 911 call. Possible remedies can include: training dispatchers to determine if a real emergency or crime is being committed, training dispatchers to assess racial discrimination from the caller and training officers to carefully assess every situation. While these solutions may not fully solve the problem, they will help decrease the amount of false reports leading to the wrongful arrests of blacks. These trainings could also lead to a significant reduction police shooting of unarmed blacks which in turn will provide minorities with peace of mind during their encounters with a police officer.