



NEW YORK CITY LAW DEPARTMENT  
OFFICE OF THE CORPORATION COUNSEL

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Press Release

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*For Immediate Release*

**NEW YORK COURT OF APPEALS HOLDS THAT 911 TAPES OF WTC CALLERS  
SHOULD REMAIN PRIVATE UNLESS A FAMILY MEMBER  
WANTS A LOVED ONE'S CALL DISCLOSED**

***ORAL HISTORIES OF FIREFIGHTERS ORDERED DISCLOSED EXCEPT FOR PORTIONS  
LIKELY TO CAUSE PAIN OR EMBARRASSMENT***

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New York, March 24, 2005 –The New York Court of Appeals, ruling in a case in which *The New York Times* sought the tapes of 911 calls made from the World Trade Center on Sept. 11, 2001, decided today that the callers' words on the 911 tapes need not be disclosed because of the surviving family members' strong privacy interests recognized by New York's Freedom of Information Law (FOIL). The City had sought to protect the privacy of those who were killed in the attacks as well as their families and survivors. The Court further held, as the City had agreed, that surviving family members who want to hear their loved one's final words are entitled to disclosure of the call.

In its decision, the Court stated: "The privacy interests in this case are compelling. The 911 calls at issue undoubtedly contain, in many cases, the words of people confronted, without warning, with the prospect of imminent death. Those words are likely to include expressions of the terror and agony the callers felt and of their deepest feelings about what their lives and their families meant to them. The grieving family of such a caller – or the caller, if he or she survived – might reasonably be deeply offended at the idea that these words could be heard on television or read in *The New York Times*."

Noting that not all family members would have the same reaction to disclosure of the 911 tapes, the Court cited the Fire Department's assurance that it would honor any requests by families of Sept. 11th callers seeking disclosure.

The Court also held that oral histories conducted of firefighters interviewed in the aftermath of the attacks are subject to disclosure except for those portions likely to cause pain or embarrassment to the interviewees. The City has permitted the 9-11 Commission and the National Institute of Standards and Technology to inspect, subject to confidentiality, unedited transcripts of the oral histories as well as unedited tapes of the 911 calls.

In an additional holding in the case, the Court ruled that the U.S. Department of Justice should be given an opportunity to show why certain exhibits it intends to introduce at the trial of Zacarias Moussaoui should not be disclosed prior to trial. Moussaoui has been charged by authorities with taking part in the Sept. 11th plot. If such a submission is made, the lower court will determine whether the law enforcement exemption to FOIL applies to the exhibits. Finally, the Court held that opinions and recommendations made during Fire Department dispatch calls on Sept. 11th are exempt from disclosure under the intra-agency exemption of FOIL.

In response to the Court of Appeals' ruling, Corporation Counsel Michael A. Cardozo said: "We are pleased that the Court has recognized the importance of maintaining the confidentiality of the intensely emotional statements made by persons who were calling for help under the most tragic circumstances imaginable." He added, "The decision protects the privacy of the victims of the attacks of Sept. 11th as well as the privacy of their families and survivors."

As a process and timetable for disclosing the tapes and oral histories is established, the City will publicize it and keep the media informed.

Senior Counsel John Hogrogian of the Law Department's Appeals Division argued the case before the New York Court of Appeals, which is the State's highest court. The legal team also included Deputy Chief Marilyn Richter, Chief Litigating Assistant Lawrence S. Kahn, and, in the lower court, Senior Counsel Naomi Sheiner (who has since retired).

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 90,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at [www.nyc.gov](http://www.nyc.gov) or via direct link at [www.nyc.gov/html/law/home.html](http://www.nyc.gov/html/law/home.html)T.

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