

TESTIMONY ON THE 911 EMERGENCY RESPONSE SYSTEM AND ITS FUNDING

PRESENTED TO THE
SENATE VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS COMMITTEE

BY

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October 16, 2012
Harrisburg, PA

Good morning. I am Brinda Carroll Penyak, Deputy Director of the County Commissioners Association of Pennsylvania (CCAP). The CCAP is a non-profit, non-partisan association providing legislative and regulatory representation, education, research, insurance, technology, and other services on behalf of all of the Commonwealth's 67 counties. I am pleased to be here today to offer testimony on the 911 emergency response system and its funding.

Counties are proud of the role they play in providing 911 call-taking and dispatch, and are equally proud of the role they played in bringing this important service to all of the citizens of Pennsylvania. Yet there are many ways we believe the system can be improved, and we thank the Committees for giving us, as well as our peers and our partners, the opportunity to discuss this important issue. Indeed, enhancing 911 services remains one of the legislative priorities counties continue to identify on an annual basis.

Before I discuss our recommendations, it is important for you to understand the history and framework of 911 here in the Commonwealth.

Prior to passage of the Public Safety Emergency Telephone Act (Act 78) in 1990, emergency dispatch in Pennsylvania was under municipal control and was at best an ad hoc system, marked by competition among jurisdictions, and only nominal centralization. Most calls required dialing a seven-digit number, and different seven digit numbers were often the norm for ambulance, police and fire. At that time, 911 service was available in only a handful of jurisdictions, and if an individual outside one of those jurisdictions dialed 911, the call was answered by a telephone company operator, who then gathered information from the caller and rerouted the call to the appropriate municipality and department.

While a few areas were able to overcome jurisdictional, political, and funding difficulties to create centralized 911 systems, it was clear that this patchwork approach would cause significant delays in 911 deployment, and in the interim needlessly endangered individuals and property. On that basis, our counties stepped forward and argued that 911 call taking and dispatch should be moved from municipal to county responsibility. Working with legislative leaders, municipalities, the Pennsylvania Emergency Management Agency, emergency management professionals, and the communications industry we ultimately succeeded in obtaining passage of Act 78, providing the tools to promote development of 911 systems on a statewide basis. The Act overcame the primary impediments to development of 911 systems by vesting with the counties, rather than municipalities, the statutory authority for creating the system, and by providing a funding source through the telephone subscriber surcharge.

The result was that in less than a decade – and for most much more quickly than that – the counties were able to put in place 911 centralized dispatch services.

We quickly realized, however, that the act had one key deficiency, specifically, that when Act 78 was under development, none of us anticipated either the rate of growth or the many directions of change in communications technology.

Within a few short years we saw the growth of wireless communications, to the point where the number of 911 wireless calls overtook wireline calls and created a whole new set of problems

with identification of call origin. We largely solved that problem with Act 56 of 2003, which incorporated a one dollar per month wireless subscriber fee and gave us tools for planning and development of wireless locator and response systems.

With that problem barely solved, we found we had comparable problems with VoIP communications systems, and again worked with PEMA, emergency management professionals, and the industry and developed Act 72 of 2008, which also incorporates a one dollar per month wireless subscriber fee and gave us tools for planning and development of VoIP locator and response systems.

In response to growing use of prepaid wireless phones and attendant issues on the changing means of their sale and deployment, Act 118 of 2010 clarified how the fee and related administrative matters apply to those devices.

Still on deck is the need for statutory revision to provide locator systems within PBX and comparable networks.

And we now face our greatest administrative and fiscal challenge since original system deployment – incorporating next generation technologies into call taking and dispatch.

In short, we have a robust system that largely meets the public safety needs of our residents, businesses, and visitors, but it is a system cobbled together over time and one that needs restructuring to enable us to better meet current and future needs.

The General Assembly recognized this as well several years ago, including in Act 118 a directive to the Legislative Budget and Finance Committee (LBFC) to study the 911 and wireless E-911 funding systems, including a determination of the cost effectiveness of the systems, within both PEMA and the counties.

That study, released in May of this year, finds that the existing subscriber surcharges pay for about 70 percent of the system, but notes that the system includes some services beyond the scope of 911. It also finds that there is no clear enforcement or audit mechanism to determine whether providers are accurately collecting and remitting subscriber fees. And it notes that although Pennsylvania ranks among the most consolidated 911 systems in the nation, the high per-call costs in the smallest counties suggest the need to further consolidate some public service answering points (PSAPs).

The report makes 16 recommendations. In addition to those noted above, it suggests that the Public Safety Emergency Telephone Act be amended to give PEMA a stronger regulatory role, including clearer ability to approve system configurations and funding distribution formulas, and to provide more clearly for so-called Next Generation technologies such as text and video, which could improve service and allow more cost-effective utilization of Internet capabilities.

While we may have issues with some of the findings of the Legislative Budget and Finance Committee report on county 911 system management, we find ourselves in complete agreement

on the common theme of the report – we believe it is now time to develop a full revision of the Public Safety Emergency Telephone Act.

Work on revision has been in the planning stages for some time, and has now begun. Our Association has maintained this effort among its legislative priorities for the last several years – deferring a simpler request that we increase the allowable rates for user fees and instead supporting full revision. PEMA has also begun work, starting with revision of the standards for county 911 plan review, but most importantly including retention of a consulting firm to develop a long-range strategy on meeting the next generation 911 challenge. Regarding the latter, they have already reached out to counties and responders with a series of regional meetings to review the project.

Most recently, the House Veterans Affairs and Emergency Preparedness Committee amended House Bill 1020 to deal with just a few issues that tighten the provisions regarding recovery of personnel costs, and change the provisions relating to carry-over costs. Both are issues brought up in the LBFC report. House Bill 1020 further provides direction and incentive for regionalization of technology and voluntary consolidation while still honoring county discretion in the administration of the system. As this testimony is being prepared, House floor action is scheduled on the bill and the Senate is primed for action, and should it come before you we ask for your support of final passage.

For the purpose of today’s hearing, though, as part of the discussions on HB 1020 we also discussed a number of other issues from the LBFC report, many of them fundamental system reforms, but we believe these remaining issues require much more careful deliberation in a broader context, which was not afforded in the short period of time remaining in the 2012 session. The matter remains a priority for us, and we will look forward to working with the General Assembly and other stakeholders in the new session on this comprehensive rewrite.

I would now like to speak to some of the key objectives we would like to see in a full revision of the Public Safety Emergency Telephone Act.

First, we need to blend the Act’s disparate technologies, planning processes, fee structures, and grant structures into a single whole.

Each technology has a different fee structure:

- Wireline systems – monthly subscriber surcharge of between one dollar and \$1.50 per month, depending on class of county, that is collected by the communications provider and transmitted directly to the county in which the fee is collected
- Wireless communications – monthly surcharge of one dollar that is collected by the providers, remitted to PEMA, and then distributed to the counties based on county plans submitted to and approved by PEMA
- VoIP communications – monthly surcharge of one dollar, collected monthly by the provider and remitted, at the discretion of the provider, either directly to the county of the subscriber’s billing address, or to the state treasurer for quarterly remittance through PEMA to the county of the subscriber’s billing address

- Prepaid wireless – surcharge of one dollar per point-of-sale transaction (both phones and the purchase of minutes), remitted quarterly to the state Treasurer, then distributed to wireless providers and PSAPs to comply with the wireless E-911 State plan

Each technology has different planning requirements, so although our objective is to integrate the call and dispatch handling processes, under the Act the county plans often cover different portions of the same system.

Each technology also has different allowable costs, so under the Act counties must deploy and account for funds in ways that can best be described as torturous.

Our second recommendation is that we develop a core statute that can readily recognize and accommodate new technologies, a recommendation echoed by the LBFC report. The act began with wireline and later incorporated wireless, VoIP and prepaid wireless. As noted at the outset of this testimony, legislation is yet to be adopted to adequately address advances in PBX technologies. Already, county public safety answering points (PSAPs) report attempts to access 911 through text or even Facebook, and attempts to forward streaming video. Clearly, incorporating new technologies by keying language to that individual technology inevitably leads to the inconsistencies in funding and administration that we currently experience.

The third recommendation is that the Act's financial structure needs to be rewritten to fully recognize county costs in providing the system. We have been working with PEMA and the emergency management professionals to provide a comprehensive analysis of the amounts and nature of county cost centers, and will advocate that all of these cost centers be included as allowable costs against which fees can be applied, in their entirety. As the system is now structured, percentage limits in some cost centers, combined with non-recognized costs for some parts of the system, means that every county must make up part of the funding of the system from the county property tax.

Fourth, the fee structure itself must be updated. The current set of fees are based on 1990 standards and by any measure are inadequate to provide this critical service. These twenty-year-old limits, combined with declines in usage particularly as wireline service declines, mean that an increasing share of the cost of the system is borne by the county property tax payers. Further discussion on this point is contained in the LBFC report. A structure that brings the fee base up to current-year needs and provides for an inflator with appropriate safeguards would ease the burden on the property tax and ensure continued quality services.

We note, however, that we consider all of the current fees limits to be based on 1990 rates regardless of date of enactment – while the wireless, VoIP, and prepaid fees may have been adopted at later dates, they were all keyed to the least common denominator from 1990 (\$1.00) to assure that there was a uniform market effect. On that basis, we will advocate that any inflator applied to the wireline fee cap be uniformly applied to the other fees as well.

We also note parenthetically that municipalities and fire companies, which benefit directly from the system and no longer have to bear this cost, do not contribute to the system. We are not advocating that they do, but make the point just to emphasize that the full cost falls on the

county, to be paid either through the fee structure or the county property tax. In fact, we believe that this arrangement may raise questions with the LBFC study's conclusion regarding our system costs; other states' costs may be skewed by failure to recognize costs borne in those states by municipal and state governments rather than the county.

The last component, and one which will require careful deliberation, is the need to develop balanced methodologies for collection and distribution of subscriber-based funding. We do not have a recommendation of which distribution methodology would be preferable – whether subscriber-address based, tied to approved plans, distributed based on some formula of relative calls or population, or some combination of these – and assume that it is a matter to be developed among the interested parties. We will also need to determine some means to provide assurance that communication system providers are properly collecting and remitting the subscriber fees; additional information and recommendations on this point are found in the LBFC report.

We appreciate your leadership in calling this hearing. We are proud of what we have accomplished to date on behalf of our mutual constituents, and we look forward to working with you as we develop legislation that improves on that record and enhances our ability to meet the changing needs to come.

I would be happy to answer your questions at this time.