



**TESTIMONY ON
PROPOSED CHANGES TO THE 911 FUNDING FORMULA**

Presented to the House Veterans Affairs and Emergency Preparedness Committee

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Thank you for the opportunity to offer our written comments regarding proposed changes to the 911 funding formula on behalf of the County Commissioners Association of Pennsylvania (CCAP). CCAP is a non-profit, non-partisan association providing legislative, educational, insurance, research, technology, and similar services on behalf of all of the Commonwealth's 67 counties.

Counties provide one of the key functions in public safety, the operation of the 911 call-taking and dispatch system. Under counties' administration, Pennsylvania's system is by all measures one of the most effective, efficient and technologically compliant systems in the nation.

Prior to the enactment of Act 12 of 2015, however, the statutory and funding backbone of the 911 system was approaching crisis proportions. The Public Safety Emergency Telephone Act, approved in 1990, included planning and funding components that were not structured to anticipate or accommodate new technology developments, and the funding stream failed to keep pace with need. In fact, the prior funding structure covered only an average of 70 percent of counties' costs to provide this vital meaning that counties had a significant and growing backfill of local property tax dollars needed to keep 911 systems operational for their residents and for all those who visit or travel through their communities, particularly given the intent of the original law for the subscriber fee to fully fund all eligible costs.

Act 12 reflected a substantial effort by counties, PEMA, legislators, communications providers and 911 professionals to comprehensively rewrite that statute. The write included comprehensive revision of governance mechanisms, accountability mechanisms, technology references, distribution of fees, and rate of fees, and was intended to recognize that the commonwealth and counties need not just to maintain current systems, but to invest in the future response capabilities based on technologies as well as citizen and corporate expectations. In particular, Act 12 removed the three silos in previous law that treated wireline, wireless/prepaid wireless and VoIP as separate technologies for planning, funding, and audit purposes.

While the wireline, wireless, prepaid wireless, and VoIP subscriber-based funding system was maintained, the monthly subscriber rate, effective August 1, 2015, is set uniformly at \$1.65 (under prior law the fee was \$1.00 for wireless, prepaid wireless and VoIP, and between \$1.00 and \$1.50 for wireline dependent on class of county). Rather than the previous system, (wireline funds directly to county of billing address; VoIP funds direct to county or channeled through PEMA based on billing address, wireless funds to PEMA for redistribution based on county costs determined through plan/grant submission), all funds under Act 12 are channeled through the state and are distributed quarterly, primarily on a formula basis. This formula distribution gets away from the previous de facto competitive grant and instead gives counties a defined amount that provides annual budget certainty, and concurrently serves as an incentive to manage within available dollars; counties spending above available amounts do so knowing that the difference comes from the county general fund.

Act 12 established a two-part interim formula; the first part is calculated at 106% of each PSAP's wireline and VoIP average receipts over the five-year period from 2010-2014, and the second part distributes the remainder based on each county's relative historic expenditure reports averaged over the five-year period from 2010-2014. PEMA and the 911 Advisory Board were charged with coming up with a more permanent formula, which leads to the proposal which the 911 Funding Subcommittee began working in 2018.

Setting aside the actual funding amounts for a moment and focusing just on the factors on which the interim formula is based, it has been widely understood that those factors are inequitable for long-term use for several reasons. First, the formula continues to rely on 2010-2014 inputs, even though we can see that wireline revenue has gone up, while VoIP revenue has increased since that time. Second, while it is anticipated that most counties had at least one capital project in that time, a large project that increased this factor in the formula will continue to have a disproportionate impact on a county's allocation even if the project is long since complete. In reverse, a county that has undertaken a large capital project since then would have no way to see that reflected in their current allocation. At the same time, consistent standards for reporting expenditures were not in place prior to Act 12, meaning that different counties may have reported expenditures in different ways but were nonetheless captured in the formula.

By law, PEMA, in consultation with the state's 911 Advisory Board, is to develop a more permanent distribution formula that fairly and proportionately reflects county and regional 911 system needs and must consider and may include factors such as base level costs, population, call volume, and extenuating factors such as topography, population density, and special hazard exposures. At least 30% is to be distributed based on relative population. The Funding Subcommittee also committed to seek factors that were simple, based on objective data, and could not be subject to manipulation.

Early on in the discussions, factors such as call volume and population received considerable attention. Both, however, tended to favor those counties that are more urban, and so while population is required to be a factor in the formula, it was recognized that it could not be an exclusive factor. Call volume, too, was an imperfect factor – just as one example, we are all aware that with the proliferation of cell phones, an accident that may have generated one or two calls now can generate dozens within minutes, each of which needs to be addressed even though they are each related to the same incident. There is also no dataset that exists with this information.

A wide variety of other factors were considered as well. Was there a way to capture the impact of large events or the number of road miles or interstates in a county, for instance? Ultimately, though, almost every other factor was rejected because it did not meet the criteria to be simple, objective and not subject to manipulation. The Funding Subcommittee eventually narrowed the factors for consideration down to three – population, as required; equal distribution, seen as a benefit to smaller counties; and population density, which helped to address concerns about concentration of mobile devices and the impact on call volumes. From there, the Subcommittee

considered dozens of potential combinations before deciding on a formula with a 3% equal distribution, 97.5% population and 2.5% population density factor.

Of course, the only way to change the formula – regardless of what factors are ultimately chosen and in what proportion – in a way that benefits everyone is to simultaneously increase the total amount of funding available to share. Absent an increase in the 911 Fund, any decision regarding the formula at this point disadvantages someone – if changes are made, counties that would see their funding decrease see a disadvantage, but if changes are not made, those counties that have been disadvantaged by underfunding for the past five years will continue to be so. The revenue streams for the 911 Fund, and the revenue needs of our 911 systems, are issues that will likely be raised again when the 911 statute sunsets on January 31, 2024, both in terms of the actual fee level and what it is ultimately based on. We look forward to working with the General Assembly to begin laying the groundwork for these discussions over the coming session.

In addition, one of CCAP's objectives was to look at a way to hold counties harmless, or at least to moderate any decreases. The funding formula recommendation also included a proposal to use part of the funds for competitive incentive grants set aside in the 911 law to offset 100% of any decrease in 2021, and 50% of the decrease in 2022, offering several years until a county would be fully impacted by a decrease caused by a change in the formula. Unfortunately, this support at this time cannot be guaranteed beyond 2022, meaning that the longer any changes to the formula are delayed, the less likely it is that there will be help to moderate counties that would see decreases. We also note, again, that the availability of this support does not quite coincide with the sunset of the 911 statute in early 2024, when, again, the funding mechanism would also be up for renewal and consideration by the General Assembly; however, there is no requirement that this discussion must wait until the current law sunsets. We would also be remiss if we did not note that all counties also benefit from those competitive incentive grants, which has supported the development of NextGen 911 and other critical projects for counties outside of the funding formula.

This was not an easy decision to make, understanding that changes to the formula were needed to be sure it was as fair, and could remain as current, as possible for all counties. As an association representing all 67 counties, a negative outcome for some is not at all what was desired. But the Subcommittee, with stakeholders who represented the commonwealth both geographically and demographically, held a deliberate, focused and thoughtful discussion on such a complex issue, and the compromise is a balance that would allow historically underfunded counties to gain some ground for the long term, and even for those counties that may initially see a decline in allocations, represents a more equitable and sustainable funding distribution that benefits all 67 counties.

Thank you for your consideration of these comments. We would be pleased to answer any questions you may have.