

## **Summary – Public Safety Committee Meeting**

October 23, 2018

### **Committee Members Present:**

Sharon Bulova (Chairman)  
Penelope Gross, Mason District (Vice Chairman)  
John Cook, Braddock District (Committee Chairman)  
John Foust, Dranesville District  
Catherine Hudgins, Hunter Mill District  
Jeff McKay, Lee District  
Kathy Smith, Sully District  
Linda Smyth, Providence District  
Daniel Storck, Mount Vernon District

The meeting was called to order at 11:04 a.m., by Committee Chairman John Cook.

### **COMMITTEE MATTERS**

The meeting summary for the September 18, 2018, Public Safety Committee meeting was approved. A copy of this summary, along with the October 23, 2018, meeting agenda and materials are available at the following link:

<https://www.fairfaxcounty.gov/boardofsupervisors/board-public-safety-committee-meeting-oct-23-2018>

The video of the October 23, 2018, Public Safety Committee meeting, is available at the following link:

[http://video.fairfaxcounty.gov/MediaPlayer.php?view\\_id=9&clip\\_id=1183](http://video.fairfaxcounty.gov/MediaPlayer.php?view_id=9&clip_id=1183)

### **AGENDA**

#### **Review and Discussion of Code of Virginia § 18.2-416, Punishment for using abusive language to another, and County Code § 5-1-15, Disturbing the Peace**

- Supervisor Cook provided a brief overview of the reasons he asked for this topic, “curse and abuse,” to be on the agenda.
- Colonel Edwin C. Roessler Jr., Chief of Police, provided an overview of department policy and philosophy related to enforcement of Code of Virginia § 18.2-416,

Punishment for using abusive language to another, and County Code § 5-1-15, Disturbing the Peace.

- Captain Ryan Morgan, Planning and Research Bureau, discussed the following:
  - Disorderly conduct and breaches of the peace are Primary Based Objectives (PBOs) for all police recruit training as mandated by the Department of Criminal Justice Services (DCJS). This training is provided by the County Attorney's Office during every recruit training academy.
  - These training objectives are also reinforced to officers through mandatory DCJS legal training requirements and FCPD legal refresher classes.
- Captain Morgan provided statistical data for “curse and abuse” charges for CY 2015 through CY 2018 to date, and the general circumstances of several types of these cases. There have only been 24 related charges in that time period, including not only some initiated by police, but those in which a victim obtains their own warrant from a magistrate. Captain Morgan also noted the Alternative Accountability Program (AAP) provides a diversion for this offense, and there have been no related criminal charges since that program began.
- Supervisor Cook asked about the difference between breach of peace or “curse and abuse” statutes and disorderly conduct, with concerns over the vague language and possible selective enforcement. Chief Roessler stated that officers are trained on the difference and that they do not overcharge an offender to seek more serious consequences for the offender or to have the ability to place someone in physical custody to conduct a search incident to arrest or an inventory search of their vehicle. Disorderly conduct, Code of Virginia § 18.2-415, is a more serious offense (Class 1 misdemeanor) and encompasses conduct other than just the “utterance of any words” covered in § 18.2-416 and County Code § 5-1-15 (both Class 3 misdemeanors).
- School Board Member-at-Large Karen Keys-Gamarra was encouraged the arrests for these offenses were low, and asked how many cases involved juveniles or were concentrated in specific school areas. Captain Morgan stated that 10 cases involved juveniles, and Chief Roessler reiterated that SROs and school staff are focusing on using AAP for these cases now whenever possible instead of placing a criminal charge. She then noted the recently modified SRO Memorandum of Understanding between FCPS and FCPD required officer training with de-escalation, and pointed out the importance of ensuring the continuing education of officers about children's developmental stages, mental health issues, and special education needs.
- Supervisor Cook voiced a similar concern as to a student being charged with a crime. Chief Roessler again reiterated his goal to avoid arrest except as a last resort, discussed officer training with the schools, and the AAP's positive impact of fewer juvenile arrests. Chief Roessler also noted that de-escalation training is mandated for officers every year.

- Supervisor Gross commented that the County Code regarding “curse and abuse” language should remain as this type of language is inappropriate, and commended the AAP program.
- Supervisor Storck agreed as to the need for a “civil society” and appropriate low-level enforcement if needed, and he also discussed how body worn cameras may provide more perspective into these types of scenarios in the future. He then also briefly described a neighborhood traffic issue that turned into a “curse and abuse” and potentially threatening situation involving residents of a neighborhood and how the responding officer handled it, which did not satisfy the complainant. Chief Roessler described how, based on the brief description, the situation could have been maybe handled better by the officer through either explaining alternative approaches to the complainant and in taking action as appropriate for either enforcement or through community engagement. Chief Roessler offered to follow-up, but Supervisor Storck said he is already working with the station commander at the Mt. Vernon District Station.
- Supervisor Hudgins asked Chief Roessler further about changes made for offenses in schools, and he again reiterated the preference to use the AAP and that arrest should only be a last resort. She recommends further future discussion between the Board and the School Board as to how issues could best be handled by school staff and to not always involve SROs.
- School Board Member-at-Large Keys-Gamarra inquired about statistics regarding disorderly conduct charges within the schools. Supervisor Cook suggested that this be a future specific topic for a joint School Board and Board of Supervisors meeting.

#### **Diversion Programs, Juvenile & Domestic Relations District Court (JDRDC)**

- Robert A. Bermingham, Jr., Director, Court Service Unit, provided an update on JDRDC diversion programs and their philosophy to assess the needs of each child to provide an appropriate and equitable outcome:
  - JDRDC is a statutory court and described how it differs from adult courts
  - Overview of diversion programming
  - Alternative Accountability Program (AAP) – street level diversion
  - Direct diversion by Intake Officers
  - Efforts in schools to focus on “classrooms, not courtrooms” diversion philosophy
  - Diversion hearings
- Mr. Bermingham provided statistics regarding the FY 2018 AAP outcomes, noting a high success rate with a 99% compliance rate and a positive impact on recidivism.
- Mr. Bermingham detailed how the diversion program will continue to progress with the following:
  - Move resources to meet client and agency needs

- Continue to monitor fidelity and quality assurance
  - Improve equity through training and awareness
  - Enhance programming and diversion options, and better engage the community
  - Increase collaboration around services available.
- Chairman Bulova commended diversion efforts, and asked Mr. Bermingham for some specific examples of diversion options for juveniles and whether there were sufficient resources available. As an example, he noted the Youth Assessment and Screening Instrument (YASI) now used to best identify needs and to target the most appropriate intervention strategies or referrals for youths. As to resources, he stated they currently have sufficient resources, particularly based on the latitude they have been provided by the County and the Board to redirect internal resources to meet community and individual needs, but that will require ongoing assessment.
  - Supervisor Cook asked Mr. Bermingham to explain further how the AAP brings youth offenders together with their victims for resolution and the positive impact that has. Mr. Bermingham explained the underlying philosophy of “restorative justice,” which includes accountability for the offender balanced with the rights of victims. In many cases restorative justice is more impactful on offenders as they have to face the victim, be held responsible and accountable, and accept the consequences.
  - Supervisor McKay commended Mr. Bermingham on his comments in response to Chairman Bulova’s question as to how they are reallocating resources to be most effective. He also suggested that more tracking and budget statistical information from Court Services units on the use of current resources would be beneficial to inform future budgeting discussions.
  - Supervisor Hudgins discussed her past concerns as to disproportionality in the criminal justice system and commended the philosophical change to restorative justice and its positive impact.

### **Review and Update on Pre-911 Notification System**

- Supervisor Cook gave a brief summary of the item, with a reminder that this was an update as the issue has been discussed with the committee several times before. Conceptually, in a pre-911 notification system information provided by individuals in advance as to any special needs, medical issues, mental health challenges, developmental disabilities, etc., would be readily available to call-takers and first responders as needed for a more effective response. An update was also requested as it was hoped in past briefings other localities in the region might adopt a similar system to leverage subscribers who cross jurisdictional boundaries for various reasons.
- Dave Rohrer, Deputy County Executive (DCE) for Public Safety, briefly reminded the committee of how this program will work and noted the relatively few changes since the last discussion, other than that one other locality, Alexandria, has now implemented the program. D.C. has had one and Prince William is in a consideration phase. Public safety

agencies do support a pre-911 notification system and a module to support emergency management planning and response provided efforts are sustained in maintaining a robust subscriber base and that users update their information routinely.

- Roy Oliver, Assistant Director, Department of Public Safety Communications (DPSC), and Steve McMurrer, 911 System Administrator provided a more detailed overview of the Pre-911 notification system, its goals, and a visual depiction of how it works. They also discussed:
  - A vendor maintained repository
  - Concept is user-provided safety profile information voluntarily entered into an external vendor database and made available to subscribing 911 centers at the time of an emergency call
  - This information would only be used by DPSC at the time of an emergency call
  - The Office of Emergency Management (OEM) could use additional modules for registry, planning, response, and recovery purposes for residents who opt to provide their information for such purposes
  - That a pre-911 notification system would be most beneficial for “silent” calls received by DPSC
- Seamus Mooney, Coordinator, OEM, provided an overview of the County’s current Functional Needs Registry and their recent efforts to contact users and refresh their information. He also discussed the Fairfax Alerts notification system.
- Asst. Director Oliver provided a regional overview depicting the status of pre-911 notification system, again with only D.C. and Alexandria using one and Prince William considering one. He also listed the subscriber base for Alexandria and D.C.
- Asst. Director Oliver presented the current funding requirement estimates for three possible options for the County to consider – one just a basic pre-911 notification module, a second to include an additional OEM module, and a third to include the first two modules and an alerting module to replace the current alert system.
- Supervisor Cook commented that he would like to see staff move forward with an implementation plan for a pre-911 notification system.
- Supervisor Smyth asked if the system would require a landline phone, which are obviously becoming more obsolete. Asst. Director Oliver explained that these systems work with landline or cell phones, a subscriber may register multiple devices.
- Supervisor Smyth also asked if the capacity to identify the location of cellular caller is improving. Mr. McMurrer said DPSC now has a program, RapidSOS, which has greatly enhanced this capacity.

- In response to a question from Supervisor Gross, DCE Rohrer explained that signing up and maintaining accurate information on this system is an individual's personal responsibility that the county would not be involved in. The county would neither maintain nor own the information. He said continual outreach to the public would be required to communicate the need to sign up and maintain and update their information.
- In response to a question from Chairman Bulova, Asst. Director Oliver said the feedback from Alexandria and D.C. on their systems has been positive and that DPSC has been monitoring D.C.'s system in particular as it is a more mature system with a more robust outreach model.
- Chairman Bulova asked if the County was in a position to move forward with this type of system. DCE Rohrer responded yes from a technical standpoint to add any basic pre-911 notification module, the decision to be made is from a budget perspective balanced with the expected "return on investment." Asst. Director Oliver said the same and added that any relevant additional information that the 911 center can receive from callers enhances the capacity to best serve and protect them. Coordinator Mooney explained that any additional OEM module, which neither D.C. nor Alexandria use, would require more work to download data and that individuals would have to opt in to share their information with OEM, but that due to the limitations of the current Functional Needs Registry this would provide more accurate data on location and a more proactive tool.
- In response to a question from Supervisor Smith, Asst. Director Oliver and Mr. McMurrer explained that there would be no adverse impact on the County systems or preparations for NextGen 911 as the County has already made significant progress in this area. Asst. Director Oliver also explained that a pre-911 notification system is in essence just a "plug and play" subscription service and would not reside on any County system.
- Supervisor Storck suggested obtaining a profile of users in other localities to give a sense of the potential population that it would directly benefit, as well as better identifying the target population that would require outreach to get them involved in order to obtain a better understanding of the cost benefit of this system. DCE Rohrer said that this information has been requested in the past, but the vendor will only provide broad information to protect sensitive subscriber information.
- There was no decision or recommendation by the committee on whether to fund a pre-911 notification system.

Meeting adjourned at 12:55 p.m.