



# COMMONWEALTH of VIRGINIA

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July 26, 2022

To: The Honorable Robert B. Bell, Chair, House Courts of Justice Committee  
The Honorable Robert D. Orrock, Chair, House Health, Welfare, & Institutions Committee  
The Honorable John S. Edwards, Chair, Senate Judiciary Committee  
The Honorable L. Louise Lucas, Chair, Senate Education & Health Committee  
The Honorable R. Creigh Deeds, Chair, Behavioral Health Commission  
The Honorable George L. Barker, Chair, Joint Commission on Health Care

Fr: Nelson Smith, Commissioner, Department of Behavioral Health and Developmental Services

Re: Chapter 619 of the 2022 Acts of Assembly

Chapter 619 (HB1191, SB361) of the 2022 Acts of Assembly directs the Department of Behavioral Health and Developmental Services (DBHDS) to report on the findings of a work group to study the barriers to implementation for Marcus Alert. The language states:

*The Department of Behavioral Health and Developmental Services and the Department of Criminal Justice Services shall convene a work group with representatives of each locality within the Commonwealth that has a population of less than or equal to 40,000 to identify barriers to establishment and implementation of the protocols outlined in subsection G of § 9.1-913 of the Code of Virginia, as amended by this act. The work group shall report its findings and make recommendations to address such barriers to the Chairmen of the House Committees for Courts of Justice and on Health, Welfare and Institutions, the Senate Committees on the Judiciary and Education and Health, the Behavioral Health Commission, and the Joint Commission on Health Care by December 1, 2022.*

In accordance with this item, please find enclosed the report on Chapter 619. Staff are available should you wish to discuss this request.

CC: The Honorable John Littel, Secretary, Health & Human Resources



# **Report on Barriers to Participation in Marcus Alert,**

(Chapter 619 (HB1191/SB361), 2022 Acts of Assembly)

**July 26, 2022**

***DBHDS Vision: A Life of Possibilities for All Virginians***

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## **Preface**

Chapter 619 (HB1191, SB361) of the 2022 Acts of Assembly directs the Department of Behavioral Health and Developmental Services (DBHDS) to report on the findings of a work group to study the barriers to implementation for Marcus Alert. The language states:

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# Chapter 619 Barriers to Marcus Alert

## Table of Contents

<b>Survey Overview .....</b>	<b>2</b>
Survey Results.....	2
<b>Identified Barriers from Survey .....</b>	<b>2</b>
Community Services Boards (CSBs) .....	2
Law Enforcement Agencies (LEAs) .....	4
Public Safety Answering Points (PSAPs) .....	6
<b>Workgroup Recommendations.....</b>	<b>8</b>
Fund Local Law Enforcement Agencies.....	8
Fully Fund the Training Academy.....	8
Provide Standardized Marcus Alert Training.....	8

## Introduction

The Department of Behavioral Health and Developmental Services (DBHDS), as directed by Chapter 619 of the 2022 Acts of Assembly, convened a work group with representatives of localities with populations of 40,000 people or less to determine what barriers smaller localities face when implementing Marcus Alert. DBHDS, in partnership with the Department of Criminal Justice Services (DCJS), developed and disseminated a survey to all 40 Community Services Boards (CSBs), 339 Law Enforcement Agencies (LEAs), and 124 Public Safety Answering Points (PSAPs) to collect information to inform required reporting to the General Assembly on Marcus Alert implementation and barriers throughout the Commonwealth.

During the 2022 General Assembly Legislative Session, amendments were made to the original Marcus Alert System legislation, §37.2-311.1 and §9.1-193, to allow for localities that have populations of less than 40,000 to have optional participation in portions of the Marcus Alert System. These optional components are providing emergency backup services to mobile crisis teams and responding to behavioral health incidents with a specialized response according to minimum standards and best practices developed by the Department of Criminal Justice Services (DCJS) and the Department of Behavioral Health and Developmental Services (DBHDS).

*G. of § 9.1-193 Localities with a population that is less than or equal to 40,000 may and localities with a population that is greater than 40,000 shall establish local protocols that meet the requirements set forth in the Department of Behavioral Health and Developmental Services plan set forth in clauses (vii) and (viii) of subdivision B 2 of § 37.2-311.1. Localities with a population that is less than or equal to 40,000 may and localities with a population that is greater than 40,000 shall develop protocols for law-enforcement participation in the Marcus alert system, which shall be approved by the Department of Behavioral Health and Developmental Services and the Department prior to such participation. For the purposes of this subsection, the population of a locality shall be the population of that locality as reported by the United States Census Bureau following the 2020 decennial census.*

911 Dispatch Centers, commonly referred to as Public Safety Answering Points, were codified to divert behavioral health calls to the 988 crises call system.

*H. of § 9.1-193. Notwithstanding the provisions of subsection G, every locality, regardless of population, shall establish local protocols to divert calls from the 9-1-1 dispatch and response system to a crisis call center for risk assessment and engagement, including assessment for mobile crisis or community care team dispatch if available, in accordance with clause (iv) of subdivision B 2 of § 37.2-311.1.*

The legislation added an additional report on barriers and recommendations from workgroups convened with representation from small localities.

## Survey Overview

In September 2022, DCJS and DBHDS developed and disseminated a survey to all 40 Community Services Boards (CSBs), 339 Law Enforcement Agencies (LEAs), and 124 Public Safety Answering Points (PSAPs) to collect information to inform required reporting to the General Assembly on Marcus Alert implementation and barriers throughout the Commonwealth.

## Survey Results

There were 285 responses to the survey, 277 (97 percent) were complete and eight were partially complete. CSBs had the highest response rate (percent of those contacted that responded to the survey), followed by PSAPs and then LEAs. See Table 1 for more information.

**Table 1.**

	Number of respondents	Response rate	Percent of localities with population more or less than 40K
Community Services Board (CSB)	29	73%	NA
Law Enforcement Agency (LEA)	181	53%	Less than 40K 65% More than 40K 21% NA 14%
Public Safety Answering Points (PSAP)	75	62%	Less than 40K 59% More than 40K 36% NA 5%
<b>Total</b>	<b>285</b>	<b>57%</b>	

LEA NA = University PDs and resort PDs whose populations are included in another locality's population figures  
PSAP NA = PSAPs that serve multiple localities or regions

The data has been separated in this report to specifically inform on smaller localities with populations less than 40,000. The data obtained through the survey will inform outreach, education opportunities, and training needs at the state level for localities.

## Identified Barriers from Survey

### Community Services Boards (CSBs)

A total of 29 CSBs responded to the survey. Many CSBs do not serve a single jurisdiction, and many cover several counties. For example, Rappahannock-Rapidan CSB serves Rappahannock, Orange, Fauquier, Madison, and Culpeper Counties, which includes several towns and Culpeper City. This means that a geographical catchment area of CSBs includes more than 40,000

individuals. One CSB explained, “We (one CSB) serve 16 jurisdictions/10 counties in a 2200 square mile area.”

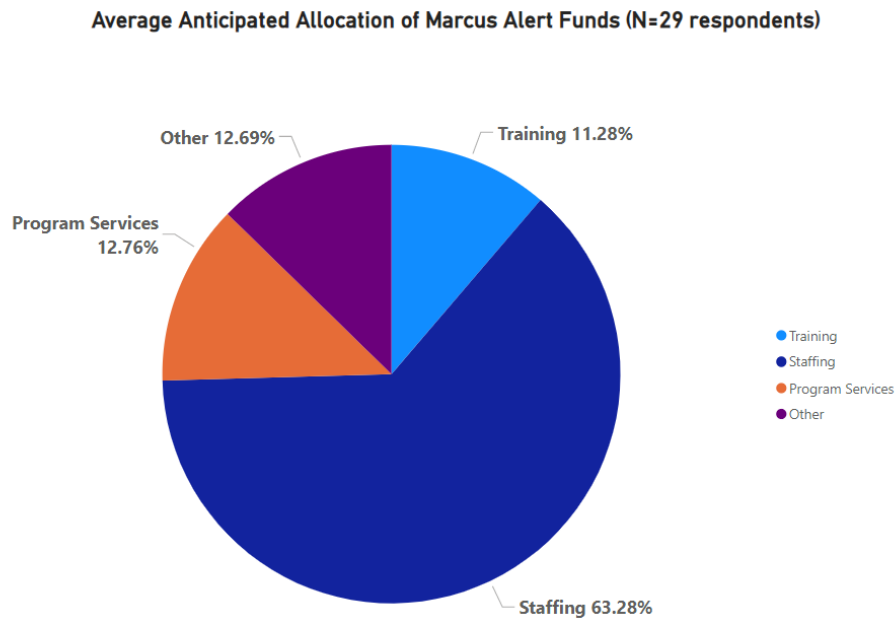
The Marcus Alert funding allocation is provided to DBHDS through grants to localities. These dollars are distributed as \$600,000 grants to CSBs to be utilized for Marcus Alert expenses across the system.

CSBs were asked to report the percentage of these funds that they planned to allocate staffing, program services, and training to support Marcus Alert, shown in Table 2.

**Table 2.**

Areas of Funding	Percent of Funding	
	Average	Range
Staffing	63.28%	0-100%
Program Services	12.76%	0-50%
Training	11.28%	0-50%
Other	12.69%	0-100%

**Figure 1.**



On average, among the 29 responding CSBs, most of the funds are planned to support staffing (63 percent), while program services and training will share about a quarter of the funds (13 percent and 12 percent, respectively). 13 percent is planned to fund other expenses.

The following covers the questions asked and the responses received from the survey.

***What additional services or resources, if any, currently do not exist in your locality but are needed to support Marcus Alert implementation?***

The primary resource identified is staffing for mobile crisis teams and other services as a part of the local crisis continuum buildout. Training for PSAPs and LEAs is another priority that was commonly identified by CSBs.

A CSB captured the difficulty in building programs with limited staff in a rural area:

*Generally, our catchment area is willing to develop a program. However, the recruitment to fill current positions is difficult. Our CSB has many vacancies for clinician positions with few applications to consider. These positions have been vacant for extended periods of time. Our law enforcement partners have the same issue. It makes it additionally challenging to implement new programs when additional staff are needed. The staffing resources are legitimately scarce in rural areas. Incentives to recruit and hire qualified staff do not seem to increase the bodies needed to fill positions (law enforcement and clinical mental health professionals). Marcus Alert will be difficult to implement due to these reasons. This program will take a special mental health professional that is willing to work out in the field in potentially dangerous situations. Most mental health professionals did not seek their degree with an end goal to work in high-risk environments during the hours that are potentially required.*

***How, if at all, do you anticipate the new Marcus Alert legislation (HB 1191, 2022) impacting your ability to implement Marcus Alert in your CSB catchment area?***

The optional participation in Marcus Alert is dependent on population size and the choice of the local law enforcement agencies. CSBs commented about participation based on conversations with local law enforcement and conversations or commitments that have been made.

**Law Enforcement Agencies (LEAs)**

A total of 181 LEAs responded to the survey. 118 of those respondents serve localities with populations of less than 40,000. 26 of the respondents serve universities/colleges or resort communities whose populations are included in another locality’s population figures, which appears as “NA” in data tables.

The following question was asked via the survey regarding Protocol 2 which requires LEAs to enter into formal agreements with the regional mobile crisis hubs to serve as emergency backup to mobile crisis providers.

***Is your agency planning to opt out of Protocol 2? (Table 3)***

***Note: Only localities with a population of 40,000 or less can opt out.***

**Table 3.**

	Under 40K pop	NA
No	18 (15%)	9
Yes	46 (39%)	6



Unsure	54 (46%)	11
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When asked what barriers exist that would prevent an agency from entering into these agreements the primary issues are manpower and education. Most law enforcing agencies are struggling with recruiting and retaining staff and for small localities this strain can have severe effects on providing core services.

A small LEA provided this response, “As a smaller agency with very limited funding, we already struggle with staffing shifts while working short-handed due to turnover. We do not have the manpower to dedicate officers for mobile crisis response. Currently, dealing with mental health crisis calls (ECOs and TDOs) takes officers off of patrol and regular duties, leaving our shifts even more short-handed.”

Additionally, based on the responses, not all LEAs have a clear understanding of what is required of them to implement this protocol. Ongoing communications and education from the state level are required for law enforcement to be successful with Marcus Alert.

The following question was asked via the survey regarding Protocol 3, which requires LEAs to comply with minimum standards and best practices developed by the state and send a specialized response.

***Do you plan to opt out of Protocol 3? (Table 4)***

***Note: Only localities with a population of 40,000 or less can opt out.***

**Table 4.**

	Under 40K pop	NA
No	20 (17%)	8
Yes	38 (33%)	9
Unsure	58 (50%)	8

When asked what specific barriers exist that would prevent an agency from entering into these agreements the primary issues are manpower, training, and education.

The lack of current staffing to cover core services prevents many agencies from sending staff to training such as CIT Training which is a 40-hour, week-long class.

One agency provided, “Primarily staffing and manpower. Like most LEAs, we are working short-handed due to turnover and training. Our part-time budget is limited. While we do have a goal of sending all officers to CIT training, due to staffing shortages, the number of officers we can send at a time is very limited as is the frequency at which we can send officers for training.”

Additionally, based on the responses, not all LEAs have a clear understanding of what is required of them to implement this protocol. Several comments mentioned contingency on local CSB abilities and mobile crisis teams; however, though the CSB could be a helpful resource, this

protocol is exclusive of the CSB. Ongoing communications and education from the state level are required for law enforcement to be successful with Marcus Alert.

***If DBHDS/DCJS were to provide additional resources for purposes of supporting local Marcus Alert implementation, which of those resources would be most helpful to your agency? (Table 5) (Rank options in order from most helpful to least helpful)***

**Table 5.**

ALL N = 176	1 <sup>st</sup> (most helpful)	2 <sup>nd</sup>	3 <sup>rd</sup> (least helpful)
Under 40K pop N = 114			
Funding	68 (60%)	36 (32%)	10 (9%)
Staffing	35 (31%)	55 (48%)	24 (21%)
Training	11 (10%)	23 (20%)	80 (70%)

When asked “Are there any additional resources that would be most helpful to your agency?” the most frequent resources beyond funding, staffing, and training were education, psychiatric hospital beds, equipment, and crisis continuum reformation.

One agency noted, “The most significant challenge that the department faces is the lack of bed space for TDOs. While transportation is cumbersome and time consuming of staff, maintaining multi-day custody of TDO/ECO patients in hospitals while awaiting bed space is significantly more impactful towards police staffing.”

The law enforcement community is struggling to maintain a workforce and an initiative such as Marcus Alert seems like a significant effort to implement, however, for providing mobile crisis back up and sending a specialized response most agencies are already or working towards meeting the minimum standards. Additional education is required to these agencies so there is consistent understanding of the requirements.

**Public Safety Answering Points (PSAPs)**

Virginia has 124 Primary PSAPs that dispatch 911 services. A total of 75 PSAPS responded to the survey and 44 of those respondents serve localities with populations of less than 40,000.

***Please identify the barriers impacting your agency’s ability to add data fields into your CAD system to capture data for Marcus Alert. N = 16***

Among the 16 responses to 4a, there were 20 separate items listed as barriers (Table 6).

**Table 6.**

Barrier	N
Cost	4
CAD is limited	4
Captured in-house	2
Vendor required for updates	6
Upgrading to new CAD system	2

Other	2
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In addition to the identified costs and technical limitations to the dispatch systems that some PSAPs utilize, another reoccurring theme is the misunderstanding of what the voluntary database is. There is a desire for statewide minimum standards and additional education on the intent and utilization of the voluntary database.

Staffing and training remain primary concerns for PSAPs. One PSAP commented on their needs, “Staffing is an issue with training. We would be able to get more staff trained if we had adequate staffing to support individuals while in the 40 hr. [CIT] training.”

***If DBHDS/DCJS were to provide additional resources for purposes of supporting local Marcus Alert implementation, which of those resources would be most helpful to your agency? (Table 7) (Rank options in order from most helpful to least helpful)***

**Table 7.**

	1 <sup>st</sup> (most helpful)	2 <sup>nd</sup>	3 <sup>rd</sup> (least helpful)
Under 40K pop N = 43			
Funding	18 (42%)	14 (33%)	11 (26%)
Staffing	10 (23%)	18 (42%)	15 (35%)
Training	15 (35%)	11 (26%)	17 (40%)

The survey asked if there were additional resources other than funding, staffing, and training that would be most helpful to the PSAP agencies. The most common responses were for training, education, and guidance. The PSAPs desire standardization of the voluntary database and of the triage process for transferring calls to the 988 system. A framework was developed for call transfers to 988 and the original state plan intended for the specifics of call transfers to be determined at a local level, however, generally most PSAPs would prefer a state defined triage process that would also provide immunity from liability. To successfully implement a triage system to 988, PSAPs require standardized training for call takers, dispatchers, and other staff. In addition to the previously described resource needs, direct guidance, and communications to PSAPs on Marcus Alert is requested.

## **Workgroup Recommendations**

DCJS convened workgroups comprised of LEAs that serve localities with populations less than 40,000. These workgroups provided the following recommendations for Virginia’s law enforcement community to successfully implement Marcus Alert.

1. Fund Local Law Enforcement Agencies
2. Fully Fund the Training Academies
3. Provide Standardized Marcus Alert Training

**Fund Local Law Enforcement Agencies** – Small LEAs struggle with paying for everyday police expenses such as new vehicles, vehicle maintenance and repairs, and other equipment. To implement any new initiative will require a fully funded LEA to respond to situations with proper equipment and training.

In addition, agencies would like to see the “599 Program” – a financial assistance program for local police departments – fully funded, as state funds are essential to law enforcement operations as well as local funds.

**Fully Fund the Training Academies** – Regional Training Academies have seen substantial decreases in state funds which affects their ability to meet the needs of the communities. Localities are then required to increase their contributions to make up for the shortfall. Local agencies are already feeling the strain of not being fully funded.

**Provide Standardized Marcus Alert Training** – DCJS in the process of revamping several curriculums and standardizing trainings delivered through academies. The recommendation is to have a DCJS-approved Marcus Alert training available as soon as possible and standardized across the state as a best practice.

Other recommendations that have been identified but were not specifically named in the workgroup are standardization of the voluntary database requirement, increased communications, additional technical assistance for 988 and 911 interactions.