



Sheriff Tim Carter

initial working draft for MA

Fri, Apr 30, 2021 at 4:37 PM

Hi Lisa.

Thanks so much for sending me the document and the "objection log." I have tried multiple times to access Sharepoint, and it keeps telling me that I either need to change my password, which I do; and ultimately, my account is not recognized VDBHDS. I ask that you please forgive me in that I am offering up my suggestions, observations, or recommendations, in this format, but I can't think of any other way to do it. Also, I have included Ms. Olutoyin and Steve Richardson on this email since I receive much of the meeting information from them, either pertaining to the larger work group or the Triage sub-group. Also, I included Patrick since he has been working closely with a CIT "team approach" model for quite some time, and I believe he is another sub-group leader.

But please know, I am happy to have my comments/suggestions distributed to the larger work group, I just didn't know the procedure on that aspect.

My first reaction when I read the draft was, "Wow!" I am not sure who spent the time to Draft the State Plan for Implementation of the Marcus-David Peters Act document; I do appreciate the time and thoroughness that was put into the document.

Observation/Objection:

1. There is a large amount of time and description in the draft document in the "Level 3 and 4" descriptions and the "Summary of State Framework" particularly in the sections of "Broader Systems Consideration" and "Background" that pertain to the statutes on civil custody, particularly ECO's and TDO's. I am not sure if I understand the description of this issue, but it seems to me that VDBHDS is overly attentive to this matter in that maybe they believe that law enforcement should not be the enforcement authority for these matters. At one point, there is discussion in "System Approach Overview" about the laws, complexities and responsibilities of government in "use of force" situations...."regulations regarding the use of force in healthcare settings also important to consider." I tell my staff, try to teach them continually, that the most volatile thing we can become involved with is the taking of someone's freedom, or placing them in custody. The intent of the Marcus-David Peters Act is to be "health focused" but the language here suggests that VDBHDS wants to extend its authority into a physical enforcement role, and ultimately into an incarceration or custody role. "Virginia [DBHDS] has granted some civil law enforcement as it relates to custody

arrangements of a temporary detention order (TDO)." Another concerning part of this language is the identification that VDBHDS desires to extend the incarceration time period for emergency mental health situations...."we are NOT talking about extending the ECO period as it currently stands, we are talking about aligning it with services..." I disagree with the statement, that is exactly what is happening - ECO time of incarceration is being extended, but it seems to be called something else. Furthermore, it leaves the door open to indefinite incarceration for mental health matters. I believe that is a dangerous precedent to set. To put my concerns here more plainly, and bluntly, VDBHDS seems to want to be the treatment provider, the enforcer, and the jailor.

2. There is no language involving evidence or the preservation of evidence, or potential prosecution or investigatory authority related to a crime scene or violation of criminal laws in the document. I understand the Intercept 0. I understand that we want people who need treatment to have equal access to treatment. But I also understand that people do commit criminal acts. And we all have an obligation to protect the public, the responders, the victims, those needing treatment, and the general public. I believe there should be some type of language in the Level 2, 3. and 4 responses that reference preservation of evidence for a potential prosecution if the matter is deemed, not behavioral health related.

3. In the "Mobile crisis teams" language, the issue of 9-1-1 center staff and training use is brought up. "The LOCUS" is a tool that does not require clinical expertise.....so it is possible that it could be used by 9-1-1 center...." An aspect of concern for me has been that our 9-1-1 center staff throughout the Commonwealth have not been adequately trained to do the transitioning and/or emergent response coordination between 9-1-1 and 9-8-8 regional call centers. I have had local communications officers and supervisors ask me if their liability will increase with the emergent authority of the 9-8-8 regional call centers. My response has been, certainly if you have not been trained adequately on the call response expectations and merging of the two systems. The language here suggests that they "ought" to be able to do what is required, but we haven't determined that they can do what is required. I think I would be more explanatory to include language on how the Commonwealth will get these staff professionals to the point where they can make the proper decisions on call response determination.

In all three of these previous concerns/objections, I believe it would have been very helpful if the Commonwealth addressed these matters before passing the legislation.

4. I disagree with the Community Care Team language (Co-Response and Non co-response) regarding the qualifications of responders. I believe the standard should be about equal, especially for the "best practices" criteria. I am not sure why the social worker level of "at least some time working specifically in crisis work" equates to three (3) years of certified law enforcement experience. I believe these criteria need to be more flexible for the law enforcement officer as they are for the social worker, specifically for the years of experience. I am good with the specialized training

requirements, such as CIT, de-escalations, etc., training, but having "some field experience" and taking the lead does not serve public safety very well.

5. I agree with the 4 level approach model, but disagree with the language in Level 3 and Level 4. When language like, "lead" is used before an assessment is conducted, that decision of who is "lead" is not in the best interests of public safety. A determination of the matter or call must be made as to whether it is a behavioral health matter or a violation of law, before deciding who is the lead agency. The way the template is written, the scene is secured, and the social worker is immediately given the "lead" authority without investigatory language. I believe I read, somewhere, some language of the "Incident Command" model in the document, but this is not present in the Levels template. It seems to me that Level 3 and Level 4 are predetermined before anyone even assesses the situation. I wanted to express these objections during our Triage Sub-group, but have not been able to access Sharepoint of VDBHDS before the sub-group presentation.

6. In the Co-Response Team model, there is discussion of having the mental health professional receive training on "law enforcement defensive equipment,...., the use of police radios, and common technology platforms (mobile CAD, etc.)." I keep asking myself when I come back to Intercept 0 - why does it seem that we are training mental health professionals to be law enforcement officers? This language is expanded on in the best practices area where there is discussion of familiarization of law enforcement tactics. "Tactics" is not specifically used, but that is what the paragraph is saying to me, and how I interpret it. I think the language is conflicting to the intent of the Marcus Alert system and Act. But if you re-look at my "#1" concern above, then it makes sense.

7. In the "Community Care Team - Non Co-Response" there is language citing "soft uniform that is less formal than a typical duty uniform may provide easier initial communications," in that "some research" supports this notion. I will be asked to cite the source of this research. I think the source should be cited that supports this notion, while remembering that the public has an expectation of law enforcement in their community to be noticable and distinguishable from a "regular citizen."

8. In the section "Safety and Equipment," there is language that says, the "law enforcement officer sees it is his or her job to maintain the safety of the team...." I believe the public and the various governing bodies also have this expectation, not just the law enforcement officer.

9. In the section "Additional Considerations for Response Teams," where the statistic "90-93%" of a back-up is not needed; where does that come from? We try to send a back-up unit to all urgent calls, mental health, behavioral health, property disputes, etc. Some police departments send back-ups routinely to all calls. Language here suggests that law enforcement back-up units are not needed? Maybe, I am reading this information wrong. But it did not make sense to me.

10. In the law enforcement training standards and the dispatch training standards, it would be helpful to know how much more time will be required for local governing bodies to prepare for, regarding the basic and inservice training requirements. This information equates to \$\$.

11. In "Reporting Requirements" 48 hours is too little time.

12. "Voluntary Database" There isn't a lot of information here to give localities guidance. Does the regional call center have the same requirement? In other words, will the data that they collect on calls be merged into the respective 9-1-1 centers, and even be accessed across jurisdictional boundaries? It should be available to all first responders, but the language here is fuzzy to me. Another aspect of the language says that a juvenile whose information is included in the local database can have his/her information removed when he/she turns 18 years old. Is the locality required to tell a person that they have been entered into this mental health database?

13. In the "Marcus Alert Accountability Framework" there is language about Quarterly local meetings and critical incident reviews to help quality improvement. I think there should be language to prevent a disruption in an ongoing criminal prosecution added to this section.

14. In the "Marcus Alert Accountability Framework," I disagree with including the language regarding Citizen Review Boards in this section. The Marcus Alert Act and state legislation, does not Citizen Review Boards a requirement or mandate to counties, localities, or the Commonwealth as a whole.

15. I realize there are some future considerations in the body of the document. I would hope that we could add language like funding support from the Commonwealth for law enforcement, 9-1-1 centers, training, along with the funding suggestions for VDBHDS.

Thank you for taking your time to read this email, and the work that you've done on keeping the group focused and moving forward. I plan to be at our #11 meeting this coming Monday (05/03/2021), but I will be a few minutes late. Please call if you have any questions about these comments or objections/suggestions. Thanks again!

Tim Carter

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