

MARSHALL COUNTY FISCAL COURT
AMENDED ORDINANCE NO. 2017-03

AN ORDINANCE AMENDING ORDINANCE NO. 2017-03
ENTITLED 911 EMERGENCY TELEPHONE SERVICE ENABLING
ORDINANCE

WHEREAS, KRS 65.760 provides that a local government may, by ordinance, establish an emergency telephone service and provide for the governance of its administration and operation;

WHEREAS, the Marshall County Fiscal Court wishes to clarify that Marshall County 911, as previously established, is in fact a “criminal justice agency”;

WHEREAS, pursuant to applicable federal rules and regulations, a criminal justice agency is “a governmental agency that performs the administration of criminal justice pursuant to a statute or executive order, and that allocates a substantial part of its annual budget to the administration of criminal justice”;

WHEREAS, KRS 15.530-590 defines a law enforcement telecommunicator and training requirements for the Marshall County 911 telecommunicators;

WHEREAS, a Marshall County Resolution defines the employees of Marshall County 911 as First Responders - being the initial point of contact in the public safety framework and the critical infrastructure for all criminal justice activities;

WHEREAS, pursuant to applicable federal rules and regulations, administration of criminal justice means, “the performance of ANY of the following activities: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.”;

WHEREAS, Marshall County 911 devotes approximately 90% of its budget to the following activities (this list not to be read as exhaustive): detection of criminal offenders via the collection and analysis of statistical crime data using telematics, cameras, crime data trends and sensors; issuance of detainer and locates on wanted subjects, research for wanted subjects, issuance of requests for service of warrants from other jurisdictions for the apprehension of criminals; preparation of presentencing reports, discovery for all prosecution, and criminal histories for district, circuit and any appellate court for pretrial and post-trial release; interrogation of 911 callers and expert testimony for adjudication proceedings; correctional supervision through the monitoring of criminal ankle bracelet programs; compiling probation and parole reports using criminal data resources for the rehabilitation of offenders; criminal identification activities and the dissemination of criminal history record information;

WHEREAS, because of these functions mentioned above and other functions not listed, Marshall County 911 is a “criminal justice agency” performing “administration of criminal justice” within the intent and meaning of applicable federal rules and regulations;

NOW THEREFORE, Be it Ordained by the Fiscal Court of Marshall County that Ordinance No. 2017-03 is hereby amended to read as follows:

SECTION I – TITLE AND AGENCY DEFINITION

- A. There is hereby enacted the 911 Emergency Telephone Service of Marshall County, which may be referenced by the short title "Marshall County 911."
- B. Marshall County 911 operates and is recognized as a "Criminal Justice Agency" as defined by the US Code of Federal Regulations, Title 28 Part 20 Criminal Justice Information Systems (CJIS), "which is a governmental agency or any subunit thereof that performs the administration of criminal justice pursuant to a statute or executive order, and that allocates a substantial part of its annual budget to the administration of criminal justice." Marshall County 911 routinely and primarily engages in criminal justice activities for the purpose of detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. 28 C.F.R. § 20.3(b). The administration of criminal justice shall include identification activities and the collection, storage, and dissemination of criminal history record information. *Id.* More specifically, Marshall County 911 utilizes statistical crime data analysis using telematics, cameras, crime data trends and sensors for detection of criminal activity; issues detainers and locates on wanted subjects, conducts research for wanted subjects, issues requests for service of warrants from other jurisdictions for the apprehension of criminals; preparation of presentencing reports and prepares discovery for all prosecution including CAD reports, all audio, video logs and criminal histories for district, circuit, and any appellate court including expert testimony for pretrial and post-trial release; interrogation of 911 callers, production of CAD reports, as well as, expert testimony for adjudication proceedings; engages in correctional supervision through the monitoring of criminal ankle bracelet programs; and compiles probation and parole reports using criminal data resources for the purpose of the rehabilitation of offenders; supports criminal identification activities and the dissemination of criminal history record information. The aforementioned activities comprise more than 90% of all of the budget and activities of Marshall County 911, which constitutes the principal part of its operations, and should therefore not be defined under 28 C.F.R. §20.33(a)(6) as performing administration of criminal justice only "sometimes," but rather the substantial majority of the time. In addition, Kentucky law defines the role of law enforcement telecommunicators (KRS 15.530-.590) within the criminal justice system, and mandates that those persons be trained through the Department of Criminal Justice, further substantiating the role of the agency as a "Criminal Justice Agency."
- C. Marshall County 911 shall be recognized as a "Terminal Agency", which is defined as "an agency that has direct access to the LINK System via automated means." 502 KAR 40:010, Section1(4). Employees of Marshall County 911 are required to maintain the certifications required to access the terminal by the Terminal Agency. The CJIS/LINK Terminal shall be housed in the Marshall County 911 facility and shall only be accessible to Marshall County 911 personnel. Furthermore, the Kentucky LINK User Manual and CJIS Policy requires the terminal agency to designate a Terminal Agency Coordinator

(TAC), who shall serve as the primary point of contact at the local level as a liaison between the CJIS Systems Officer and the local agencies that have access to the criminal justice network. The designated TAC shall be an employee of Marshall County 911. The TAC shall appoint at least one (or more) Assistant Terminal Agency Coordinator(s) (ATAC) as required by agency policy. Marshall County 911, as the Criminal Justice Agency, shall at all times ensure the physical security and safety of the terminals, network, and criminal justice information as required by CJIS policy.

- D. A ‘satellite agency’ is “a nonterminal agency accessing the LINK system through a terminal agency.” 502 KAR 40:010, Section1(5). Marshall County 911 is not a “satellite agency” because it holds “direct access” to the Criminal Justice Information Systems.

SECTION II -ADMINISTRATION

- A. PERSONNEL - The appointing authority for the Marshall County 911 Director and subordinate personnel shall be the Marshall County Judge-Executive with approval of the Marshall County Fiscal Court. The Marshall County 911 Director and other subordinate employees of Marshall County 911 shall be subject to the policies and procedures of the Marshall County Administrative Code as adopted by the Marshall County Fiscal Court.
- B.
1. OPERATIONS - Day-to-day operations and administration of Marshall County 911 shall be the responsibility of the Marshall County 911 Director, who shall also be "Department Head" as that term is used in the Marshall County Administrative Code. These duties include, but are not limited to: (1) preparing an annual budget to present to the Marshall County Fiscal Court; (2) keeping the Marshall County Fiscal Court informed as to ongoing affairs of Marshall County 911; (3) preparing work schedules for subordinate employees of Marshall County 911; (4) ensuring that all personnel are kept current on any and all required licenses and certifications; (5) preparing supplemental policies and procedures, if necessary, not in conflict with the Marshall County Administrative Code, and with approval of the Marshall County Fiscal Court; (6) working with local leaders within collaborating communities to ensure services are provided as agreed upon, and (7) any and all other necessary duties to provide for the operation of an efficient emergency telephone service.
 2. An Advisory Board consisting of the individuals named below shall meet as necessary with the Marshall County 911 Director to advise on policies and procedures of Marshall County 911, not involving personnel or Criminal Justice Information System/LINK/NCIC. The Marshall County 911 Director may call for a meeting, or three (3) or more members of the Advisory Board may call for a meeting. The meetings shall be subject to Kentucky Open Meetings and Open Records requirements. As this is an advisory board only, no quorum requirements are necessary to hold a meeting and no formal records of meetings shall be required. The members of the Advisory Board are as follows:
 - i. Marshall County Sheriff or his/her designee.

- ii. Chief of Police of Calvert City or his/her designee.
- iii. Chief of Police of Benton or his/her designee.
- iv. Three (3) members as chosen by the Chiefs of the Fire Departments.
- v. Marshall County Emergency Management Director or his/her designee.
- vi. Marshall County EMS Director or his/her designee.
- vii. Marshall County Animal Control Director or his/her designee.

C. CRIMINAL JUSTICE INFORMATION SYSTEM/LINK/NCIC –Marshall County 911 shall be authorized to enter into a Criminal Justice Agency User Agreement with the state CJIS Systems Agency, as defined by CJIS Security Policy. Marshall County 911, being recognized and operating as the “terminal agency,” shall comply with the provisions and guidelines set forth for a Criminal Justice Agency in the Criminal Justice Information Security Policy and LINK User Manual. Control and responsibilities of the Criminal Justice Information System/LINK/NCIC shall be the responsibility of the Marshall County 911 Director. Complete control over personnel who operate the terminals with respect to discipline, hiring, and termination shall at all times remain with the Marshall County 911 Director as provided by the Administrative Code.


D. GRIEVANCE BOARD - For disputes that are otherwise unable to be resolved with respect to Operations of Marshall County 911 not involving personnel, a grievance procedure is hereby established to facilitate resolution of these disputes. The grievance procedure shall take place as follows:

1. The head of an agency utilizing Marshall County 911 services may initiate a grievance by providing written notice to the Marshall County 911 Director, and delivering forthwith a copy to the Marshall County Judge Executive's Office and the Marshall County Fiscal Court Commissioners.
2. The grievance shall contain a statement outlining the substance of the grievance and a brief explanation of the events that precipitated the grievance.
3. For each grievance filed with respect to Operations of Marshall County 911 not involving personnel, a three-member Grievance Board shall hear the grievance, with the three-members to be chosen among the following individuals:
 - a. Chiefs of the Fire Departments
 - b. Chief of Police of Benton
 - c. Chief of Police of Calvert City
 - d. Marshall County EMS Director
 - e. Marshall County Coroner
 - f. Marshall County Animal Control Director
 - g. Marshall County Emergency Management Director

h. Marshall County Sheriff

4. The three-member board for each grievance shall be chosen by the Marshall County Judge/Executive or his/her designee with the approval of the Marshall County Fiscal Court at the next scheduled meeting of the Marshall County Fiscal Court.
5. The three-member board shall be chosen so that there are no conflicts of interest between the members of that particular three-member board and the agency that initiated the grievance.
6. Within five (5) working days following formation of a particular Grievance Board, the three-members chosen to form that particular Grievance Board shall meet at a designated time and place to hear the grievance. The hearing before the Grievance Board shall be informal. Hearings shall be recorded. One person on that Grievance Board shall be chosen by the three members to act as Chair and may administer oaths. Decisions by the Grievance Board shall be in writing, issued within two (2) working days following the hearing, and shall be final.
7. Hearings before the Grievance Board shall be subject to Kentucky Open Meetings and Open Records requirements.

Passed and Effective this the 17 day of MARCH 2020.



KEVIN NEAL, JUDGE EXECUTIVE
Marshall County Fiscal Court

ATTEST:



Clerk, Marshall County Fiscal Court

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