STATE OF ILLINOIS

DEPARTMENT OF STATE POLICE

Rosemont Public Safety:  
Department:  
Consolidation Waiver Request:  

Case No. 16-W-160

RECOMMENDED DECISION

By Administrative Law Judge Jan Von Qualen:

BACKGROUND

On June 30, 2016, the Rosemont Public Safety Department ("Rosemont" or "ETSB") filed a verified Request for Waiver of the 9-1-1 consolidation requirement, pursuant to Section 15.4(a)(c) of the Emergency Telephone System Act ("Act"), 50 ILCS 750/0.01 et seq. Section 15.4a requires consolidation of certain Emergency Telephone System Boards ("ETSBs"), Joint Emergency Telephone Boards, qualified governmental entities, and Public Safety Answering Points ("PSAPs"). Affected entities are required to consolidate by July 1, 2017. They are required to file a Consolidation Plan or a Request for Waiver by July 1, 2016.

Rosemont has a population of less than 25,000 and is located in a County which has a population of at least 250,000. Therefore, Subsection 15.4a(a)(2) of the Act requires Rosemont to consolidate. Rosemont requests a permanent waiver from the consolidation requirement on the grounds that consolidation would result in a substantial threat to public safety and would be economically unreasonable. The requirements for waivers are set forth in Section 200(e) of 83 Ill. Adm. Code 1324 ("Part 1324") - Consolidation of 9-1-1 Emergency Systems.

A hearing was held before a duly authorized Administrative Law Judge on August 4, 2016. James R. O'Toole, Rosemont 9-1-1 Coordinator; Kieran Mackey, Deputy Chief of the Public Safety Department; and counsel, John Donahue of Rosenthal, Murphey, Coblentz & Donahue appeared on behalf of Rosemont. John Hosteny, Legal Counsel for the Illinois State Police ("Department") and Stacy Ross, Technical Analyst for the Office Statewide 9-1-1 Administrator, appeared on behalf of the Department. In addition to the documents within its Request for Waiver, Rosemont presents Resolutions that were adopted by the General Assembly and the Senate this year, recognizing Rosemont for 60 years of incorporation. The Department presents its Technical Review ("Review") and Rosemont’s Statement of Revenues, Expenditures, and the 9-1-1 Reserve Balance for the two most recent years, which was filed with the Illinois Commerce Commission.
II. WAIVER REQUEST

A. Rosemont

Rosemont’s Request for Waiver is verified by Mr. O’Toole and Deputy Chief Mackey. It includes a narrative statement (”Narrative”) describing the basis for the Request for Waiver. The Narrative states that Rosemont routinely serves a population of between 50,000 to 75,000 and in excess of 100,000 during peak periods. It explains that the population served is predominately a transient one consisting of conventioneers, hotel guests, tourists, shoppers and attendees at events taking place at one or more of the Village’s numerous public and private sports, meeting, shopping, restaurant and entertainment venues. It says Rosemont also handles a large volume of cellular calls from nearby interstates and O’Hare International Airport (“O’Hare”).

The Narrative asserts that there is no question that Rosemont has a service population above the 25,000 threshold. It maintains that the waiver application is necessary as a result of a technicality caused by the fact that Part 1324 has defined Service Population by relying only upon the latest population estimates available from the United States (“U.S.”) Census Bureau (“Census”), referencing Section 110 of Part 1324. The Narrative asserts that although the Village of Rosemont’s (“Village”) census population is under 5,000, this single number is in no manner representative of the population actually served by Rosemont’s 9-1-1 authority. It explains that the Village is located at the front door of O’Hare within a web of interstate highways (I-90; I-294; I-190) and includes two Metra Commuter Rail Stations, a combined Chicago Transit Authority Rapid Transit rail and bus facility, a Regional Transportation Authority Pace Suburban Bus facility, and an associated parking facility.

The Narrative states that Rosemont’s 9-1-1 operations are driven by the numerous privately and publicly owned commercial and entertainment facilities whose visitors are not counted under the current definition of Service Population in Part 1324. It states these facilities and venues include: (1) office complexes containing over 5.4 million square feet of office space employing approximately 19,000 – 20,000 people; (2) a nearly 900,000 square foot convention center and other hotel-owned meeting and banquet spaces that received over 1,200,000 visitors in 2015; (3) 17 hotels containing 5,920 rooms with additional meeting/event/restaurant space; (4) a 530,000 square foot indoor outlet mall that was visited by more than 4,000,000 shoppers in 2015 and experienced a 11% increase in traffic in 2016; (5) a sports arena/concert venue (Allstate Arena) with a maximum capacity of 19,500 seats and yearly attendance of more than 1,000,000; (6) a 4,300 seat live performance Rosemont Theatre; (7) the thriving MB Financial Park Entertainment District that contains an 18 screen movie theater, 8 different restaurants, a comedy club, an indoor sky diving center and a common area used for ice skating, concerts, and other events and is expected to receive almost 2 million visitors in 2016; (8) numerous other restaurants and businesses; (9) a softball stadium and an air-inflated sports dome facility; (10) future development which includes a new shopping mall, 2 new hotels (approximately 330 additional rooms), new restaurants/entertainment venues and a minor league baseball stadium; and (11) numerous public transportation facilities including: O’Hare, I-90, I-294, I-190, 2 Metra rail stations, one at Balmoral and one at
Zemke Avenue, a Chicago Transit Authority train and bus station, a Regional Transportation Authority Pace Suburban Bus facility and an associated parking facility.

The Narrative indicates that Rosemont is seeking a waiver from the consolidation requirement based upon the substantial threat to public safety and economic unreasonableness criteria. The Narrative states that the waiver application is being submitted without prejudice to the Village’s or its ETSB’s right to challenge the applicability of the consolidation component to it and the regulations that require that 'service population' be determined based only upon U.S. Census estimates. The Narrative argues that Part 1324’s definition of Service Population is: (1) contrary to the plain language and intent of Public Act 99-0006; (2) contrary to basic rules of statutory construction; (3) without any rational basis and invalid both on its face and as applied to Rosemont in violation of the U.S. and Illinois Constitutions. It asserts that nothing in the Request for Waiver is intended to waive any claim or argument that Rosemont may have to challenge the applicability of the consolidation requirement to it or to the validity of any decision made on this Request for Waiver. Attached to the Narrative is a copy of Rosemont’s letter commenting upon the regulatory definition of 'service population.'

1. Substantial Threat to Public Safety

The Narrative states that the Village is unique. It explains that although the Village has a census population of less than 5,000 and covers approximately 2.5 square miles, the variety and type of commercial and entertainment facilities located in the Village are more comparable to that of the State’s largest cities. It asserts that the number of people actually served by Rosemont on a daily basis by far exceeds the experience of many communities that do not need to even consider consolidation because their census populations are well above the 25,000 threshold.

The Narrative insists that requiring Rosemont to consolidate would be directly contrary to the intent of Public Act 99-0006. It says the Village is not a sleepy bedroom community where economies of scale can be achieved by consolidating its 9-1-1 service with other similar bedroom communities that have like demands on their 9-1-1 systems. It describes the Village as uniquely situated at the front door of O'Hare, enveloped in a web of busy interstate highways and host to numerous public and private facilities that draw people from the entire region and the world. The Narrative states that an attempt to mesh Rosemont with an entirely dissimilar 9-1-1 system will create a substantial threat to public safety caused by unheard calls, missed calls, mistakenly dispatched calls and the competing operational and economic needs of vastly different 9-1-1 systems. The Narrative contrasts Rosemont with other 9-1-1 systems of the basis of mass casualty risks, type of population served, Department size, being a combined Public Safety Department, the number of frequencies it monitors, and its balance of competing operational and economic needs.

Deputy Chief Mackey testifies that he has been with the Village in the Public Safety Department for 27 years. He states that he is currently the Deputy Chief of the Public Safety Department and that he has been the Commander of Administration, a Platoon Commander, a Captain, a Lieutenant, a Sergeant and a Public Safety Officer. Based upon his experience, Deputy Chief Mackey testifies that consolidation would be a threat
to public safety because any agency that would consolidate with Rosemont would be vastly dissimilar. He asserts that because of the amount of activity generated in Rosemont each day, Rosemont would drown out any other agency. He emphasizes the size of Rosemont’s full-time and auxiliary public safety force. He states it is not uncommon for it to have from 150 to 200 officers active and monitored by radio at any one time. He states he would fear for the safety of the other agency’s officers because their radio calls would tend to get lost in the radio traffic generated by Rosemont. The Deputy Chief testifies that he worked in the Village of Schiller Park ("Schiller Park") for ten years before coming to Rosemont. He says that although Schiller Park has three or four times the residential population of Rosemont, its 9-1-1 center would be overwhelmed by the magnitude of 9-1-1 calls Rosemont receives. He states that Schiller Park’s system would be lost if it were consolidated with Rosemont. He insists that there is no way that the two systems could function as a single entity.

Deputy Chief Mackey states that, in addition to regular daily patrol, multiple Rosemont venues can be active at one time. He states this would require multiple operations each one of which would equal the activity at other agencies. He says that Rosemont assigns radio traffic to different frequencies on an operational basis. As an example, he states that if there is a very large trade show at the convention center, Rosemont uses separate radio frequency for the inside security personnel, traffic control personnel, EMS, etc. Deputy Chief Mackey indicates that the City of Chicago ("Chicago") has provided the 9-1-1 center access to radio communications that go citywide and the frequencies that support the airport. He states that this demonstrates Rosemont’s uniqueness and its working relationship with the Chicago Police Department. The Deputy Chief states that after the after the 9/11 disaster in New York, the Rosemont Public Safety Department, through communications with the Chicago, shut down transportation into the airport and provided the security at the link to the airport from the City of Chicago. He states the radio frequencies give Chicago immediate access to Rosemont. He indicates the communications are through a portable radio and there are geographic limits that would have to be addressed if the Rosemont call center was moved from the Village.

Deputy Chief Mackey explains that the northeast portion of O'Hare is surrounded by Rosemont on two sides. He states Rosemont is between O'Hare and Chicago, i.e., everything going between O'Hare and Chicago must go through Rosemont. He says Rosemont creates a border around the airport and it provides 9-1-1 service for the interstates that lead to O'Hare.

Deputy Chief Mackey describes Rosemont as having three types of populations: its residents, people who come to Rosemont to stay for some period of time, and people who come for a single event. He asserts that the residents require the least of the 9-1-1 services. He maintains that a transient population requires no less service than a residential population. He explains that when people come to Rosemont, they expect no less 9-1-1 service than the residential population. He says they place greater demands on the 9-1-1 center because they are not as familiar with the community as a resident is. He gives the example of somebody working regularly in the Village. He says the person may be working in one of the office buildings, be somewhat familiar with the town around them, and be able to describe where they are. However, he says, they may only be
familiar with vanity addresses or only be able to describe the landmarks around them, but not be able to provide the street address. Deputy Chief Mackey indicates that the dispatchers are required to live in Rosemont, are intimately familiar with it, and must use that familiarity for these calls. He adds that many people with cultural and language differences go between Chicago and O'Hare and that Rosemont has a lot of experience, dealing with people from all over the world, which could not be duplicated at another call center.

Deputy Chief Mackey testifies that because of the residency requirement, the dispatchers are familiar with Rosemont, including what streets are under construction. He states that residency also gives them a vested interest in providing quality service. He says residents know that the transient population provides Rosemont's tax base and the importance of providing quality service so that people come back. He maintains that is how Rosemont is the economic engine and the success that it is.

Deputy Chief Mackey says that administrative calls, those not coming in on the 9-1-1 line, are answered by the same dispatchers and communications officers that answer the 9-1-1 calls. He states that many times the administrative calls are just as important as 9-1-1 calls because some people are hesitant to call 9-1-1. He says Rosemont tells the dispatchers that an emergency is not defined in a book, if it is an emergency to a caller, it is treated as an emergency. Deputy Chief Mackey says that Rosemont has implemented an automated caller system that directs some calls elsewhere, and that has reduced the calls to about 41,000 from 90,000 per year. But he says that means those 40,000 calls are people who are asking for some type of service from the Public Safety Department. He asserts that receiving an administrative call that had to be directed to a separate 9-1-1 center would delay the service.

Deputy Chief Mackey states that Rosemont's Public Safety Department is one of two Public Safety Departments in the State of Illinois, indicating the other is the Village of Glencoe. He says that Rosemont's Public Safety Department is a true model of public safety in that every one of its full-time public safety officers is Illinois-certified as a police officer, a firefighter, and an EMT provider. He asserts that every person on the department is required to be able to perform the duties of a police officer, a firefighter, and an EMT, not just on an assignment basis, but on an every day basis. He testifies that the police officers all carry firefighter gear in their squad cars. He states that firefighters wear a weapon while working as firefighters and maintain their ballistic vests in the fire trucks. He says the vehicles are ready to provide police and/or fire service. He states the change from police duties to firefighter duties happens routinely and can happen any time there is a need, during a shift. He states that if the duties change, so does the officer's radio frequency and that the dispatcher must be able to keep up with the changes, for dispatching and answering calls for help. Deputy Chief Mackey testifies that the radio duality is unique to Rosemont, and he has never seen it duplicated. He states that the dispatcher would have to monitor which radio the public safety officer was on, to be aware of what equipment the individual was assigned, and to keep track of the individual's availability for future calls, i.e., whether they are available for fire or police calls.
Mr. O’Toole testifies that he is the 9-1-1 Coordinator for Rosemont. He says he has worked for the Village since 1980 and became a dispatcher in 1992. He says he has been responsible for the 9-1-1 equipment in the dispatch center, keeping it operational, programmed properly, and compliant with the law, since Rosemont began providing 9-1-1 services. Mr. O’Toole testifies that the Rosemont dispatch center monitors eight frequencies on any given day. He states that for events, the EMS channel, traffic channel, and possibly others, going up to 17 channels are being used. He testifies that the dispatchers must monitor all the channels. He says that a third dispatcher may be used to handle events.

a. Mass Casualty Risks

The Narrative contrasts the Village with other communities with a census population under 25,000. It asserts that the Village has a dense concentration of high value soft targets that imposes unique risks, responsibilities and costs on Rosemont. It maintains these risks, responsibilities and costs are dissimilar in scope to anything experienced by any other community with a census population under 25,000. It buttresses its position, by stating that in October 2016, the Cook County Department of Homeland Security (“Homeland Security”) and Emergency Management’s Active Threat Program and Rosemont will be hosting a large scale extensive training exercise involving an immediate and sustained response to a multi-assault, active threat event at multiple soft target locations simultaneously. The Narrative asserts that the unique clustering of large-scale soft targets located in a small geographical area offers a unique opportunity for Federal, State, County, and local law enforcement, fire suppression, and Emergency Medical Services providers, as well as other agencies including Statewide Search and Rescue agencies, County Medical Examiner’s Office, and service agencies, including the American Red Cross to jointly test their agency’s response to a realistic, plausible, and large-scale terrorist attack. It emphasizes that the fact that the Village was chosen for this drill highlights the unique demands imposed upon Rosemont that are unlike any other community with which it might consolidate.

Deputy Chief Mackey testifies that the nature of the venues within the Village make it what Homeland Security considers to be a high risk for soft target attacks. He asserts that Homeland Security finds the Village to be a perfect example of the type of geographic area that is easily targeted because of the nature of the venues it provides. He testifies that Homeland Security has worked with Rosemont to test systems that have never been tested before on an exercise basis. Deputy Chief Mackey states that all of the dispatchers are going to be working the exercise, as well as maintaining regular ongoing operations. He asserts the dispatchers are a critical factor in not only coordinating the municipal response to host the event, but also coordinating the response from a number of other nongovernmental agencies, as well as directing other governmental agencies that are going to be brought in. He testifies that the Rosemont dispatchers are being trained as is the Department of Public Safety on an ongoing basis, specifically to handle the type of threats that are presented by the type of venues in the Village.

Deputy Chief Mackey states that although most communities do some preparation for a major event, some of the preparation is knowing where they will call for help. He states that because of the area it serves, Rosemont has been forced to ratchet it up a
notch. He says that Chicago is probably the only municipality as prepared as the Village. He states Rosemont and Chicago have discussions on an equal playing field about how to address such an event.

b. Type of Population Served

The Narrative asserts that Rosemont’s 9-1-1 demands are fundamentally different than most communities because the population served is almost entirely a transient one. It states members of the transient population do not know their address or the level they are located on in a parking garage or building complex. The Narrative avows their calls often need to be assessed using vanity information and landmarks. It argues that this places a premium upon the dispatcher having an intimate knowledge of the community. It emphasizes that their familiarity cannot be duplicated by a far-away dispatcher whose experience is largely based upon what comes up on a computer screen.

The Narrative contends that Rosemont guarantees that its dispatchers have and continually maintain an intimate knowledge of their community by requiring that its employees live within the Village. It states that Rosemont’s full time Public Safety Officers also are required to live in the Village. The Narrative says that it is expected that the Public Safety Officers will be able to interact with 9-1-1 using the common knowledge they share by virtue of their common residency. It argues that an intermixing of Village resident dispatchers with non-resident dispatchers poses a substantial threat to public safety. It explains that a Rosemont Public Safety officer will expect they can effectively communicate with 9-1-1 using the shared localized knowledge they inherently have by virtue of their shared common residency. It asserts that the more stressful and serious the event, the more public safety requires the quick communications and the common understanding that can only be achieved when the responding officers and 9-1-1 share the same residency.

The Narrative contends that the intimate knowledge that Rosemont dispatchers have with their community routinely benefits public safety when answering the numerous calls Rosemont receives from O’Hare, its rental car areas, the interstates near O’Hare (I-90, I-294, and I-190), and other areas at or near O’Hare. It explains that as these callers are usually tourists or unfamiliar with the area, they often can be best assessed with answers to questions such as “what do you see?” It asserts the answers to that question can be best evaluated by dispatchers intimately familiar with the area because of their residency. It argues that a consolidation requirement that ignores the safety of calls from or near one of the world’s busiest airports and the large traffic volumes on its surrounding interstates creates a substantial threat to public safety.

The Narrative maintains that, although the Part 1324 definition of 'service population' is limited to census data, the truth is that public safety requires that the transient population must be equally well served. It reiterates that the demands on Rosemont are not driven by its census population, but by the numerous private and public commercial facilities that it serves. It states that those facilities include: Conventions/Trade Shows/Meetings; the Allstate Arena; MB Financial Park; Fashion Outlets of Chicago; Hotels; Office Complexes/Employees; the Rosemont Theatre;
The Narrative says the Donald E. Stephens Convention Center ("Convention Center") has approximately 900,000 square feet of convention, exhibit and banquet space (11th largest in the U.S.) and hosts numerous trade shows, public shows, conventions and corporate meetings. It indicates the Convention Center is capable of accommodating tens of thousands of attendees per day. It states the Convention Center is served by two different parking garages – the Williams street garage which has 8,000 parking spots and the East garage which has 350 parking spots. The Narrative reports that in 2015, 1,331,691 vehicles parked in the William street garage and 66,000 vehicles parked in the east garage. It adds that through May 2016, 586,161 vehicles parked in the William street garage and 14,713 vehicles parked in the East garage. It says the Convention Center is not the only driver of convention and meeting events as there are numerous hotel facilities that also have exhibition and meeting spaces. The Narrative indicates that documentation from the Rosemont Convention Bureau shows that the total accumulated attendance for conventions, trade shows and corporate meetings was 1,079,371 in 2014 and 1,241,400 in 2015.

The Narrative describes the Allstate Arena ("Arena") as an indoor sports/entertainment complex that has 15,500 permanent seats and a capacity of up to 19,500 seats. It attaches an itemization of the events and attendance at the Arena, indicating that the Arena had 1,061,946 attendees in 2014, 1,034,531 attendees in 2015 and 489,058 attendees from January 1, 2016 through June 10, 2016.

The Narrative states that MB Financial Park ("MB Park") is a 9 acre entertainment district that contains: an 18 screen Muvico movie theater with a restaurant and bar; a large Hofbrauhaus restaurant that features live entertainment; the Five Roses Irish themed restaurant and pub that offers live entertainment; a 27,000 square foot Kings Bowling entertainment facility featuring 20 upscale bowling lanes, two premium bars, a full-service restaurant and additional rooms with a total of 5 full-size Billiard tables; an Adobe Gila’s Mexican themed restaurant with live entertainment; the Sugar Factory restaurant that also includes a retail shop for the sale of specialty candies, ice cream and gifts; a large restaurant and live music venue known as Bub City; a Zanies Comedy club; the Park Tavern restaurant and bar; Fogo de Chao, a Brazilian steakhouse; an iFly sky diving center and an outdoor common area that hosts seasonal events including a full ice skating rink, winter festival, concerts, fireworks, Zumba and other exercise and yoga classes. The Narrative includes data measuring the people that enter the MB Park through only selected lobby areas which shows the MB Park had nearly 700,000 visitors from January through May 2016. It notes that this data, however, underrepresents attendance as there are no counters covering the Muvico, iFly and Hofbrauhaus Parking lots which are full during lunch hours and then used for valet parking of approximately 1,000 vehicles a week from 4 p.m. to 4 a.m. The Narrative estimates that attendance at the MB Park will approach 2 million in 2016.

The Narrative describes the Fashion Outlets of Chicago Mall ("Mall") as a 530,000 square foot indoor outlet mall with over 130 stores including many luxury brands. It states the Mall has an attached large, seven level parking garage. It states that according to
Jim Hansen, the senior property manager for the owner of the Mall (Macerich), advises that in 2015 the mall had over 4,000,000 customers and that it was experiencing an 11% increase in 2016. The Narrative indicates that approximately 40 plus percent of the customers come on the weekend. It says this equates to 32,000 to 40,000 people with much higher traffic levels during the holidays.

The Narrative states that there are 17 hotels located in the Village that are served by the Rosemont ETSB. It says these hotels have a total of 5,920 rooms with additional lounges and restaurant spaces. It indicates that many of the hotels also offer banquet/meeting spaces of various sizes ranging from a low of a several hundred square feet to a high of 110,000 square feet. It provides a summary of information for these hotels and their other facilities and meeting spaces. The Narrative notes that two additional hotels, adding an additional 330 hotel rooms, are planned for the near future.

It indicates that the Village has over 30 office buildings and complexes where people come to work every day. It provides a summary of the square footage of office space, verified by Donald Calmeyn, the Finance Director of the Village of Rosemont. The summary counts 5,446,930 square feet of space that is almost fully leased. It estimates that 19,000 to 20,000 people come to work in the Village of Rosemont per day. It provides a schedule, verified by Mr. Calmeyn, from the Village’s 2015 Comprehensive Annual Financial Report, identifying the 15 largest employers in the Village. The schedule identifies its data sources as the Rosemont Chamber of Commerce, 2016 Illinois Services, Manufacturers and Industrial Directories, and the Illinois Department of Employment Security. The schedule indicates that the 15 largest employers employ 7,570 people which it estimates to be 40.1% of the total Village employment. Mr. Calmeyn's verified statement asserts that this equates to a total employment estimate of 18,900 which he believes to be low because it would not account for two recently opened hotels or a new development at the northwest corner of Higgins and River Road.

The Narrative states that the Rosemont Theatre is a 4,300 seat, live-performance Theater that hosts concerts, theatrical productions, family events and corporate events. It states that attendance at the Rosemont Theatre was 189,521 in 2014 and 192,137 in 2015. It says that from January 2016 through mid-June 2016, 146,556 persons attended the Theatre.

The Narrative states that other facilities that draw visitors to the Village include: (1) a softball stadium that serves as the home of the Chicago Bandits professional softball team; (2) a heated indoor air supported dome structure that houses 2 additional softball fields and other recreational facilities; (3) a health club; and (4) many numerous popular restaurants (Gibson’s, Morton’s, Gene & Georgetti, McCormick & Schmick’s, Carlucci’s, etc.) It states that the population served will continue to be substantially increased by future planned development which includes a new/expanded Outlet Mall; a minor league baseball stadium, additional restaurants and entertainment venues and two new hotels.

The Narrative repeats that numerous tourists and people unfamiliar with the area call Rosemont from O’Hare, its environs, I-90, I-294, and I-190. It says due to their unfamiliarity, these callers need to be properly assessed as to whether they should properly be switched off to Chicago’s dispatch center in O’Hare, the State Police or responded to by Rosemont. It states that Rosemont provides response to fire calls on
adjacent interstates and includes a police dispatch to support the fire responders. The Narrative asserts that Rosemont has a combined Public Safety Department with cross trained police/fire/EMT responders. It states that due to the cross-training, the police vehicle on patrol can be the first to arrive, make the initial contact, begin assessing the situation, and inform other responders.

The Narrative emphasizes that the large volume of traffic in and out of O'Hare, on the surrounding interstates and within the Village’s streets results in traffic related calls well in excess of what other communities will ever receive. In support of this assertion, it includes copies of records from an Illinois Department of Transportation (“IDOT”) website showing the average daily traffic volumes on the Interstate Highways and the Village’s arterial streets. It states that in addition to the large daily traffic volumes, the Village also is a public transportation hub and is served by a Chicago Transportation Authority (“CTA”) “el” station on the blue line that connects downtown Chicago to O'Hare. It says this facility also includes a CTA and Pace bus terminal and a large parking area for commuters traveling to O'Hare, Downtown Chicago, or West to the Schaumburg Terminals of Pace. It adds that two METRA commuter rail stations, serves a line that runs from Downtown Chicago to the Northern suburbs, are located in the Village.

The Narrative asserts that the transient nature of the population directly impacts the nature of the services provided. It states that Rosemont receives a substantial number of walk-ups and administrative calls, far exceeding anything that could be expected in a 9-1-1 authority that predominately serves a bedroom community. It provides a 5 year history of Rosemont’s 9-1-1 calls. The history reflects that in 2015, Rosemont received 41,552 administrative calls and that it had much larger administrative call volumes in prior years. It contends the volume of calls requires a higher level of integration and interaction between the ETSB and other Village departments than would be usual for other communities. It notes the 4:00 a.m. closing times at MB Park, the large population of hotel guests, the Village’s location next to an airport and interstates, and emphasizes that Rosemont is active at all times. The Narrative maintains that these differences between Rosemont and other 9-1-1 systems places significant additional demands on Rosemont and resulting economic costs that simply are not experienced elsewhere.

At the hearing, Mr. Donahue emphasized that there were four million visitors to the outlet mall, two million people in the entertainment district, one million people at the convention center and one million people at the Arena last year. The Narrative asserts that there can be no question that the number of people served by Rosemont by far exceeds the threshold 25,000 number. It opines that by requiring that consolidation only be considered for the smallest of communities, the legislature has inherently recognized that public safety requires that those 9-1-1 authorities that serve greater populations should be allowed to remain on their own to locally determine how to serve these larger populations. It concludes that Rosemont should not be required to consolidate and is entitled to a waiver.
c. Department Size

The Narrative asserts that Rosemont's size, operation, and 9-1-1 staffing levels necessary to serve the above noted public and private facilities and venues also cannot be compared to any other suburban municipality. It states that Rosemont has a combined Public Safety Department with 80 full time cross-trained police/fire/EMT officers. It adds that dispatchers must also monitor and engage an auxiliary force of between 250-300 officers. Deputy Chief Mackey explains that auxiliary officers provide traffic control and certain other limited activities. The Narrative states Rosemont is believed to have the largest paid auxiliary force in the nation. It indicates it has 9 full-time and 6 part-time dispatchers. It says every shift has a minimum of 2 dispatchers on duty with a 3rd dispatcher added when needed. The Deputy Chief states Rosemont has nine full-time and six part-time dispatchers. He states it has had as many as six dispatchers for certain events. The Narrative maintains that the size and nature of the Rosemont's public safety needs would overwhelm any other authority with which it might consolidate. It projects that the more the calls and needs of the larger authority dominate, the greater the likelihood that the needs of the smaller low volume 9-1-1 authority would go unheard or delayed to the detriment of both public and officer safety.

Deputy Chief Mackey states Rosemont has had the 9-1-1 center go mobile on occasions. He indicates that last New Year's Eve, the Convention Center hosted a 'rave.' He said there were six bands playing in different areas of the Convention Center and an estimated attendance of 30,000 people. He testifies that Rosemont provided, in cooperation with the Department of Homeland Security, a command post on scene where it used what he called its 'bug out equipment.' He says the equipment operated at a separate radio frequency within the command post, tracked its own calls just for that venue, and created its own dispatch records for that venue. He testifies that in the course of two days, the command post transported via ambulance over 50 patients on an ongoing basis, during the hours of the event. He says Rosemont's ability to absorb those type of events require it to be able, at its whim, to hire back additional dispatchers and to incorporate its dispatch with mobile dispatching or additional dispatchers in order to answer the need of events that are occurring within the Village.

The Narrative provides an itemization of the call data for Rosemont for the last 5 years. It argues that a review of call data leaves no doubt that Rosemont's 9-1-1 needs would overwhelm any smaller low volume system. It recounts that 2015 Rosemont's 9-1-1 calls totaled 11,172 and its administrative calls totaled 41,552 resulting in 23,992 incident cards. The Narrative opines that Rosemont's 9-1-1 demands would overwhelm any comparatively low volume system. It asserts that a substantial threat to public safety will arise to both the public and officer safety when the demands of Rosemont's call volume causes other calls to be unheard, delayed, incorrectly switched, or mistakenly handled. It maintains that this substantial risk will be increased when the operations of the other 9-1-1 authority and the demands of its system are so completely different than Rosemont’s 9-1-1 system.

The Narrative states that, in addition to taking calls, Rosemont's 9-1-1 center monitors 36 camera images on 4 different monitors, 4 additional prisoner cell cameras as well as additional security cameras for the office building in which the Village Hall and its
Public Safety Department are located. The Narrative questions why a department that does not provide services of the nature and scope of those provided by Rosemont 9-1-1 would take responsibility for the costs necessary to provide a level of service that is not relevant to its own community.

d. Combined Public Safety Department

The Narrative distinguishes Rosemont’s Public Safety Department from any other department with which it might consolidate because Rosemont has a combined cross-trained police/fire/EMT department. It explains that Rosemont Public Safety Officers assigned to the fire side are required to carry a weapon and assist, support and backfill for the police side when needed. It says that, likewise, officers assigned to the police side are required to have their fire gear in their trunks so they can assist, support and backfill for the fire side when needed. The Narrative asserts that having an officer switch from one capacity to the other and then back again places unique demands on a 9-1-1 dispatcher. It states that each switch is accompanied by a change in radio frequencies, a change in equipment to which the officer is assigned, and a change in the service availability that needs to be accounted for when responding to calls. It states that, unlike many jurisdictions which separate police and fire dispatch, the demands of a combined public safety force require dispatchers to simultaneously handle both police and fire, keeping track and monitoring the switching of officers and their status at any given time. It maintains that consolidating a combined Public Safety Department with another authority that serves separate police and fire departments would present a confusing mixture of duties for the dispatchers that could only lead to errors harming public safety.

e. Frequencies Monitored

The Narrative states that at maximum capacity, Rosemont’s dispatch center must monitor and dispatch 15 separate radio frequencies. It says that given the type of events and the number of simultaneous activities throughout the Village, it is common for 9-1-1 dispatchers to monitor 10-11 different radio frequencies at a given time. It asserts that it is also common for the 9-1-1 staff to monitor and maintain radio communications with over 150 officers at a given time at various locations in the Village, covering different types of events. The Narrative includes a calendar showing the simultaneous and overlapping events that are served by the Village’s 9-1-1 staff and Public Safety Department for the one-year period from May, 2015 through April 2016. It emphasizes that the number of frequencies monitored is unlike anything that is experienced in other dissimilar bedroom communities. It asserts that adding more frequencies for another community would add to the complexity, increase errors, and substantially jeopardize public safety and officer safety.

Deputy Chief Mackey states that the number of radio frequencies and the density of Rosemont’s radio traffic could create a danger for officer safety for the smaller agency. He states that if the other agency had only a few officers working the street and little radio traffic, it would be human nature for the dispatchers to focus on Rosemont’s active radio traffic to the detriment of the other agency. He opines that the chance of an officer not being heard, because of the sheer volume and activity of the Rosemont traffic presents a great public safety concern for the other agency’s officers. He states that prior to
Rosemont getting the radio frequencies it now uses, it shared radio frequencies with other municipalities. He says the result was that either Rosemont did not get enough airtime to get its communications out or the other municipality did not get the airtime it needed. He recounts an incident when an agency shared a large radiofrequency with other departments a distance away. He says an officer, he believes from Hillside, made a traffic stop, called it in on his radio, and, because of the volume of traffic on that radio, was not heard. Deputy Chief Mackey states that the officer's body was found a month later in Wisconsin. He says the officer had been kidnapped and brutally murdered because his radio traffic was not heard. Deputy Chief Mackey testifies that although that happened many, many years ago it has stayed with him his entire career and is the reason he is adamant about his belief of properly distributing the radio traffic. He asserts that the communications center is a vital link to the officers and firefighters, saying they may get only one chance to call for help.

f. Competing Operational and Economic Needs:

The Narrative observes that there is never enough funding to meet every governmental need. It asserts that one of the fundamental tasks of every governmental division is the ordering of priorities to meet the available funding. It states that combining Rosemont’s 9-1-1 service with a dissimilar system that operates differently would inherently result in conflict. It says a low volume system has no reason to undertake the costs of extensive multiple mass casualty training nor the desire to fund the extensive on-site presence Rosemont requires to serve its population and the 41,000+ annual administrative calls when neither of these items are required for the community they serve. It states that a large busy 9-1-1 authority, serving a combined public safety department, monitoring 10-11 frequencies, with 150 radios on the street, will have much different priorities than a low volume system with a smaller department that serves a drastically different population. It warns that a substantial threat to public safety is guaranteed when a larger department needs to compromise on items it feels are crucial to serve its needs in order to placate a partner whose primary goal is a balanced budget.

Deputy Chief Mackey testifies that Rosemont has daily meetings and briefings on events happening in the Village. He notes that the Village owns the Convention Center, the Theatre, the arena, and the ballpark, and is responsible for providing the security for them as well as for other events. The Deputy Chief states that Rosemont gets event information on a daily basis and makes decisions about how to disperse radio communications and how many dispatchers will be necessary for the level of radio traffic. He voices concern that if it were consolidated, Rosemont would have to consult with the other agency, and the costs of the additional dispatchers to serve the Village events may be an issue. He contrasts Rosemont’s needs for daily planning with the typical bedroom community which could budget and plan personnel needs one to six months in advance.

The Narrative argues that the public safety can only be harmed by forcing the consolidation of widely different communities with 9-1-1 systems that have widely different operations. It opines that this can only result in one community’s needs being overwhelmed by the other and an unacceptable risk of increased errors jeopardizing both the public and officer safety.
2. Economic Unreasonableness

The Narrative asserts that Rosemont receives 9-1-1 funding as if it were a small town when it has the needs and expenses of a very large municipality. It explains that in calendar year 2015, Rosemont’s 9-1-1 authority received total revenues of $492,722 and had expenses of $1,203,426 leaving an operational deficit of $710,704. It states the Village covered the vast majority of this deficit by transferring $515,465 to the Rosemont 9-1-1. It indicates that from January 1, 2016 to June 27, 2016, Rosemont 9-1-1 received revenues in the amount of $119,633.43 and had expenses of $669,605.96, resulting in a deficit of $549,972.53.

It states that the statewide funding of 9-1-1 is woefully inadequate to fund the cost of providing the 9-1-1 service required to maintain public safety in the Village. It says the actual deficit in 9-1-1 funding for 1015 and 2016 is much greater than the foregoing figures because in addition to the monetary contributions, Rosemont 9-1-1 does not pay rent and does not receive an accounting charge for the benefit of using the class A office space in a Village-owned office building, although the Village has numerous other rent paying tenants. In addition, it states, the Village of Rosemont pays utility expenses and bills for Rosemont 9-1-1 and provides IT and HR support.

The Narrative anticipates that the creation of a consolidated 9-1-1 Board would change the financial reporting and such that the full costs of Rosemont’s 9-1-1 system be charged to the combined entity. It says that if Rosemont’s dispatch center was utilized for the combined center, additional expenses required for the expansion necessary to accommodate additional staff would need to be paid by the combined entity. It says if the consolidated system operated out of a non-Rosemont location, additional costs would be needed to fund an on-site presence to handle the public safety demands of the annual 41,000+ administrative calls and walk-up inquiries handled by Rosemont 9-1-1 as well as the camera network currently monitored by Rosemont 9-1-1. It states that as things are now, public safety is not jeopardized by the need to take Rosemont officers off the street to handle the administrative calls and other duties handled by Rosemont 9-1-1. It asserts that any future change in these practices caused by consolidation would harm public safety by removing officers from the street.

The Narrative maintains that any consolidation of Rosemont 9-1-1 is economically impractical. It asserts there is no rational reason as to why any other 9-1-1 system would want to join with Rosemont to undertake a share of Rosemont’s unfunded 9-1-1 costs when the demands placed on their 9-1-1 system are so materially different than that necessary to maintain public safety in Rosemont. It emphasizes that given the predominately transient nature of the population served by Rosemont 9-1-1, the number of calls it serves vastly outnumbers the lines for which the Village receives funding. It insists there is no reason why a bedroom community would ever want to share these extra costs, when there is no reason for them to do so. It states there is no rational reason why another 9-1-1 system would want to cover a share of the costs of specialized training uniquely tailored to the Village’s large public venues when they simply do not have similar facilities to which this training would be applicable. It says there is no reason why another system would want to help fund Rosemont’s service to the numerous uncompensated
calls it receives from O'Hare and the highly traveled interstates which border O'Hare and the Village of Rosemont.

Deputy Chief Mackey testifies that Rosemont currently operates at a deficit of $550,000 between what it costs to maintain the center and the funding it receives from the State. He states the deficit is caused by Rosemont's needs to change and absorb additional costs on a day to day basis. He says the Village freely and willingly accepts that as the cost of doing business. He states that the Village provides space, at no charge, in an office building it owns for the call center. He asserts that if the call center was consolidated, the Village would not feel obligated to provide the space for free and cost of the space would increase the costs of running the center.

Deputy Chief Mackey states that any agency that consolidated with Rosemont would also have to take on the costs of answering 9-1-1 calls from O'Hare and the interstates. He says the interstates, I-90, I-190, I-294, that wrap around the Village, come together to form a huge web of intersecting ramps and roadways. He says it is not uncommon for the Rosemont call center to take 9-1-1 calls, where the caller is all confused and turned around about the location. He says the dispatchers rely on the geographic descriptions from the callers and Rosemont, in partnership with the Illinois State Police gets them the help they need. Mr. O'Toole explains that when a 9-1-1 call is received from the interstate, if it is a phase I call, it will identify the cell tower; if it is a phase II call, it will show where the caller is. He says if the caller is moving the call may start at one border of the Village, but be out of the Village by the time it gets to the call center. He says the system automatically rebids in 12 seconds to get the location. He says the operator will stay on the call to determine what is the emergency and where. He explains that the caller could be five miles down the road before the operator determines the location.

Deputy Chief Mackey states that although the State Police are the law enforcement jurisdiction, they do not answer the 9-1-1 calls. He agrees that Rosemont does not dispatch the calls. He says that because of Rosemont's proximity, the dispatchers do not just automatically transfer the call based on what the blip on the screen shows, because that is sometimes wrong. Deputy Chief Mackey says Rosemont services the calls by determining the location of the caller, then transferring the call or the information to the State Police. He states Rosemont provides ambulance service and fire service where needed, and provides a police squad with each of those services. He states Rosemont does not get credit or compensation for taking he interstate 9-1-1 calls. He says Rosemont operators also field calls from O'Hare many times a day. Mr. O'Toole testifies that if the call comes from a phase II phone, the dispatchers will have an idea where, within the airport, the caller is. But, he says, they would have to ask more questions before they would be able to transfer the call to the right entity. Deputy Chief Mackey asserts that the information provided by the automatic locator on the console is never sufficient to identify a location in the airport; that the operators always have to ask questions to get the exact location.

Deputy Chief Mackey maintains that these calls would be a burden that any consolidated center would have to take on. He asserts that no community, not bordering
the airport with the same web of interstates, would want to take on that financial burden and that there is no community in the geographical vicinity that is similarly situated.

3. Objections to the Definition of Service Population

Rosemont objects to the definition of service population adopted in Part 1324. It argues that although Part 1324 defines service population solely in terms of United States (“U.S”) Census bureau data, the statutory authority does not make reference to census data. It attaches a letter, dated April 4, 2016, sent from counsel for Rosemont to the Chief Legal Counsel for the Department. The letter sets forth Rosemont’s arguments in opposition to the definition. It asserts that the absence of a reference to census data establishes that the legislation never intended U.S. Census data to be determinative of service population. It argues that had the legislature intended for census data to be used, it would have specifically and unequivocally made this intent known. It adds that the Part 1324 definition of service population is contrary to the plain meaning of Section 15.4a of the Act, which made the consolidation requirement dependent on the population served. The letter argues that the scope and breadth of 9-1-1 services provided cannot be determined by census data. It states the definition is internally inconsistent because it refers to the total population of the community served and then to census data, which represents only a limited subset of the community served. Rosemont asserts that the 9-1-1 services needed by the Village are primarily driven by the economic and commercial activities that occur within it, not by its census count. It notes that the great majority of its area is zoned for commercial and other non-residential uses. It emphasizes the number of high rise office facilities, hotels, and entertainment venues. Rosemont maintains that the definition of population served must follow the plain meaning of the statute which requires a determination of the entire community served and not just the subset of the community represented by its census population.

Counsel for Rosemont indicates that Rosemont’s appearance and participation at the hearing is not intended to waive any argument or claim regarding its argument on a statutory construction basis or on a rationale basis constitutional level.

4. Efforts to Pursue Consolidation

Deputy Chief Mackey testifies that although from the beginning, Rosemont considered itself to be unique enough that it would have special requirements, it started looking for a similar community. He explains that the similar community would be one that services the same number of people, whether that was on a transient or residential population. He cites Aurora as an example. He states that communities with a similar number of people serviced are exempt from the consolidation requirement. He concludes that a community with like needs does not exist.

The Deputy Chief indicates that Rosemont talked to Schiller Park, which is consolidating with Howard Heights and Norridge. He says those communities are just south of the Village. He indicates there was a meeting in October of 2015 and less formal meetings this year. The Deputy Chief states the meetings confirmed Rosemont’s concerns about the dissimilar nature of the services provided. He indicates the response from Schiller Park was as expected i.e., ‘why would it take on Rosemont?’ He states that
Rosemont determined that only a fake consolidation would be feasible. He explains the operations would have to be separate, even if they were in the same building. He maintains that the services provided are just too dissimilar to be combined into one operation.

B. Department

The Technical Review ("Review") was performed by Ms. Ross. The Review notes that Section 15.4a(a)(2) requires Rosemont to consolidate because it has a population of less than 25,000 and is located in a County with a population more than 250,000 that has more than one ETSB.

Ms. Ross testifies that all vendors registered with the Department were notified of the Request for Waiver. Ms. Ross states no written comments were received. She states that the Department received no objections to the Request for Waiver.

The Department takes the position, based on direction from the Board that permanent waivers are to be the exception. It states the goal of the Act is for the agencies to consolidate and the Board wants the agencies to try to consolidate. The Department suggests that a waiver of a certain period of time, six months or so, would be appropriate. It indicates that at that time Rosemont could come back with any further efforts.

III. ANALYSIS

Rosemont requests a permanent waiver of the consolidation requirement on the grounds of substantial threat to public safety and it being economically unreasonable. It provides significant detail of its public safety concerns and the demands placed upon its 9-1-1 center. In particular, it emphasizes the large number of private and public facilities, the number of events hosted by the Village, and the number of people who come to the events. Rosemont discusses the volume of calls from the local transient population as well as from visitors at O'Hare and persons passing through on multiple interstates and public transportation. It emphasizes that because of the transient nature of the population served, callers often do not know their address or where they are and their calls need to be assessed using vanity information and landmarks. It argues that this makes it critical that the dispatcher has an intimate knowledge of the community that cannot be duplicated by a far-away dispatcher whose knowledge is based upon what comes up on the computer screen.

Rosemont argues that its size, 80 full-time cross-trained police/fire/EMT officers, 250-300 auxiliary officers, 9 full-time and 6 part-time dispatchers, makes it unique. It maintains that the size and nature of Rosemont’s public safety needs would overwhelm any other authority with which it might consolidate. It states that because of the number and size of facilities and events, it receives event information on a daily basis. Rosemont contrasts its needs for daily planning with the typical bedroom community which could budget and plan personnel needs one to six months in advance. It states smaller agencies would not be willing to take on daily planning meetings because it would add expense and is unnecessary for their operations.
Rosemont maintains that the number of facilities and visitors it has make it what Homeland Security considers to be a high risk for soft target attacks. It asserts that because of these risks Homeland Security has chosen it to host a large scale, extensive training exercise involving an immediate and sustained response to a multi-assault, active threat event at multiple soft target locations, simultaneously.

Rosemont maintains that its call center responds to unique challenges, dissimilar to the challenges facing other agencies with whom it might consolidate. It emphasizes that every one of its full-time public safety officers is Illinois-certified as a police officer, a firefighter, and an EMT provider. It indicates that every person on the department is required to be able to perform the duties of a police officer, a firefighter, and an EMT not just on an assignment basis, but on an every day basis. It states that it uses up to 17 radio bands for its communications and that each time an officer changes between police, firefighter and EMT responsibilities, the dispatcher must be aware of the change. It states that when an officer's duties change, so does their radio frequency and that the dispatcher must be able to keep up with the changes, for dispatching and answering calls for help. Rosemont asserts that because of the number of radio frequencies and volume of call traffic, consolidation with a smaller agency would result in a substantial threat to public health because of the likelihood that the smaller agency's calls would not receive appropriate attention.

The Rosemont Request for Waiver includes the grounds on which the waiver is sought, as required by Section 1324.200(e)(1) of Part 1324. It indicates that it has met with other communities to discuss consolidation. The Request for Waiver indicates the duration of time for which the waiver is sought, as required by Section 1324.200(e)(3). Rosemont provides additional information regarding its 9-1-1 equipment and operations. Rosemont's Request for Waiver is posted on the Department website as required by Section 200(f) of Part 1324. It can be accessed through a link on the Office of the Statewide 9-1-1 Administrator's website. The Department's Review was posted on July 15, 2016, as required by Section 200(f)(1) of Part 1324. The hearing date was also posted on the website.

The purpose of the Emergency Telephone System Act is:

...to shorten the time required for a citizen to request and receive emergency aid.

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The General Assembly further finds and declares that the establishment of a uniform, statewide emergency number is a matter of statewide concern and interest to all inhabitants and citizens of this State. It is the purpose of this Act to establish the number "9-1-1" as the primary emergency telephone number for use in this State and to encourage units of local government and combinations of such units to develop and improve emergency communication procedures and facilities in such a manner as to be able to quickly respond to any person calling the telephone number
"9-1-1" seeking police, fire, medical, rescue, and other emergency services.
50 ILCS 750/1.

Based on the record, I find that Rosemont has demonstrated that consolidation at this time is economically unreasonable and may result in a substantial threat to public safety as provided for in Section 15.4a(c). I find that Rosemont should be granted a five year waiver from the requirement that it file a consolidation plan or request for waiver by July 1, 2016, and complete consolidation by July 1, 2017. Rosemont has 9-1-1 service and is currently phase II compliant. Rosemont should be required to file a consolidation plan or request for waiver by July 1, 2021 and complete consolidation by July 1, 2022. I believe approval of a waiver of the consolidation and consolidation plan requirements for a period of five years is consistent with the statutory goals of the Act, and satisfies the requirements of Section 200(e) of Part 1324.

IV. FINDINGS AND RECOMMENDATION

The undersigned Administrative Law Judge, having reviewed the entire record herein and being fully advised in the premises, is of the opinion and finds that:

(1) Rosemont Public Safety Department has filed a Request for Waiver from the 9-1-1 consolidation requirement of Section 15.4a of the Emergency Telephone System Act, 50 ILCS 750/15.4a;

(2) Rosemont Public Safety Department has demonstrated that it has implemented its own E9-1-1 system and that at this time consolidation is economically unreasonable and may pose a substantial threat to the public health; and

(3) the requirement that Rosemont Public Safety Department file a Consolidation Plan by July 1, 2016 and complete consolidation by July 1, 2017 should be waived for a period of five years, until July 1, 2021 and July 1, 2022, respectively.

IT IS THEREFORE RECOMMENDED that the Rosemont Public Safety Department's Request for Waiver should be approved for a period of five years.

This Recommended Decision of the Administrative Law Judge is issued, the 24th day of August, 2016.

(SIGNED) Jan Von Qualen
Administrative Law Judge