

July 29, 2020 Public Comments before the Joint Meeting of Courts of Justice and Public Safety Committee

Teresa L. Champion, Virginia Autism Project

Topic: Defelonization of Assault on Law Enforcement Officer.

Thank you- for the opportunity to represent the Virginia Autism Project-

1. Families with a loved one in a mental health crisis or who has a disability that presents with complex behaviors such as fight or flight/ OCD/ anxiety/ or tics, are **terrified** of calling the police because of the charges against their loved one that could result. They are terrified of speaking out and calling attention to their situation.
2. In the best of situations they are just trying to survive and in today's world, that is even harder.
3. there is quite a bit of research that most with autism even those with Asperger's or those who just exhibit minor social challenges, have increased brain activity in the amygdala which contributes to an over-reactive fight or flight response which could account for erratic, unexplainable behavior or being "stuck". What is a trigger for one person may be absolutely nothing for another. Even those without autism but may have a history of some childhood trauma and may have these tendencies.
4. Spitting, slapping, resisting in anyway a restraint- could result in a charge of Assault on a law enforcement officers and a class 6 felony charge which then:
  - a. Puts the social services at risk- SNAP (specifically asks if recipient has a felony charge or has not complied with parole, Medicaid waiver, SSI benefits.)
  - b. Puts the individual in the judicial process which does not allow for the disability of the individual.
  - c. Puts the individual in the position of needing expensive legal services. (public defenders overwhelmed with cases and without background and expertise in special needs clients)
  - d. Adds another stress onto a family already in crisis.
5. My son has Autism and an autoimmune disorder (PANDAS) that results in brain inflammation after a strep infection. He has panic attacks, fight or flight responses and he has had a tic for 10 years where he spits uncontrollably with copious amount of phlegm.
  - a. The first time we called in a mental health crisis for an ambulance to take him the hospital in crisis- the police arrived too and they tasered him 4 times. He was naked on our front porch and weighed maybe 125 pounds. Tasers shoot fish hooks into your skin which are painful and traumatic mentally and physically.
  - b. He also has spit on a police officer as his anxiety increased and in a panic, scratched one on the hand. The officer told me he had to report it. We lived in terror until we were told no charges would be filed. But very rarely is that discretion used to the benefit of the individual.
6. We are talking about de-felonizing this charge of assault- not decriminalizing.
7. Commonwealth Attorneys in support have spoken recently:
  - a. Fairfax County Commonwealth Attorney Steve Descano is in favor of removing the clause all together from the statute with the felony classification for certain individuals. (stated in Townhall sponsored by Del. Tran with Del. Charniele Herring attending on July 22, 2020)
    - i. Not a deterrent and there are other charges that a true assault can be charged.
    - ii. Assault and Battery is a misdemeanor charge and should be for everyone.
  - b. Prince William County and Manassas City Commonwealth Attorney, Amy Ashworth July 7, 2020 Senate Judiciary Committee virtual meeting.
    - i. Supports defelonization of assault on a LEO.

- ii. Said that when this goes before a magistrate because it is 1) a felony and 2) has a mandatory minimum, then magistrates are reluctant to give a bond and will hold people for something that in the vast majority of cases is amended down to a misdemeanor.
      - c. Henrico County Commonwealth Attorney, Shannon Taylor said that of the 177 charges of assault on and LEO, 134 were reduced and 30 were dismissed in Juvenile Domestic cases.
        - i. She supports defelonization.
8. The felony charge is misused by prosecution and law enforcement to punish vulnerable and marginalized populations.
  - a. The State Police Annual Crime Report for 2019-of the 1,939 reports of assault on a police officer-
    - 1,588 reported NO WEAPONS and
    - even more 1,824 reported NO MAJOR INJURIES.
  - b. Officers this charge wrongly use this over and over- One peaceful BLM marcher in Virginia Beach on July 14 this year had the charge levied against him. I watched on live-stream this broad-daylight march of people walking and chanting.

In conclusion-

Families of a loved one with disabilities or in a mental health crisis are terrified of speaking out:

- These families are trapped between:
  - a lack of social services,
  - a lack of medical care and
  - a system that holds them responsible and their loved one responsible for involuntary acts triggered by their untreated and un-remediated medical condition.
- This charge of assault on a law enforcement officer is reduced in the vast majority of the cases where it is used and should not be a felony charge especially when used against an individual without the ability to control their fight or flight response.

Thank you,

Teresa L. Champion  
Virginia Autism Project.