

LAW ENFORCEMENT PROFESSIONAL STANDARDS SUBCOMMITTEE
Professional Development Center
West Virginia State Police Academy
Dunbar, WV

June 30, 2011

MEMBERS PRESENT: Colonel David Murphy
Retired Lieutenant Steve Walker
Retired Lieutenant Terry Miller
Ms Suzan Singleton

MEMBERS REPRESENTED: Colonel Jay Smithers by
First Sergeant Curt Tilley
Sheriff Michael White by
Sheriff Tom McComas
Chief William Roper by
Chief Steve Stephens
Judge Phyllis Carter by
Retired Sergeant J L Johnson
Ms Patti Hamilton by
Mr. Jack McClung

MEMBERS ABSENT: Mayor Arthur Auxer
Lieutenant Douglas Gunnoe

STAFF: Retired Captain Chuck Sadler
Ms Leslie Boggess

The June 30, 2011 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee, conducted at the Professional Development Center (PDC), West Virginia State Police Academy, Dunbar, West Virginia, was called to order by the Chair, First Sergeant Tilley, at 9:06 a.m. with nine (9) members either present or represented at the meeting.

First Sergeant Tilley then asked the members present, as relating to agenda item 1, if there were any items that needed to be added to the agenda that had not been previously set to the agenda. Hearing none from the members he noted that he did have two items concerning the current agenda.

He asked that the following changes be made concerning the agenda items and points of discussion for this meeting:

Agenda item 11 – That the discussion on the entry level training program curriculum be tabled as work was continuing on its development.

Agenda item 17 - Asked that a review of the application for the 147th Basic Class be added to the agenda. He noted that a copy of the agenda would be provided to them prior to the discussion.

First Sergeant Tilley asked if there was consensus approval to make these changes concerning the agenda. Such consensus approval was given by the members present. He asked once again if there were any other items that the members wanted to be address besides those which he had raised. Hearing none he moved to discuss agenda item 2.

As to agenda item 2 First Sergeant Tilley noted to the members present that the minutes of the May 26, 2011 meeting of the LET Subcommittee had been mailed with the agenda packet for their review and consideration. He asked if there were any corrections or questions concerning the minutes. Hearing none from the subcommittee members he asked if there was a motion concerning their approval.

A motion was made by Retired Chief Stephens, seconded by Sheriff McComas that minutes of the May 26, 2011 LET Subcommittee meeting be approved. There being no discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

First Sergeant Tilley then initiated discussion on agenda item 3 as to the LET Fund Financial Report by asking Retired Captain Sadler to report on it. Retired Captain Sadler noted that a copy of the Financial Report had been mailed with the agenda packet.

As reflected on that report there was a balance of \$909,286 in the LET Fund. It was noted that this total did not represent the award of \$198,000 made at the April 28, 2011 subcommittee meeting for the civilian support staff salaries at the Academy as it was being processed for award. With that amount removed there was an approximate balance of \$711,286 in the fund at this time.

First Sergeant Tilley asked if there were any questions concerning the LET Fund Report. Hearing none he asked if there was consensus approval by the members present to accept the report as presented. Such consensus approval was indicated by the members present.

First Sergeant Tilley then initiated discussion on agenda item 4. He advised the members present that it addressed the below listed individual who was seeking to be approved as a law enforcement instructor in the areas of expertise listed.

Chief Joseph C Corkrean
Granville Police Department

Traffic Crash Investigations

First Sergeant Tilley asked Retired Captain Sadler if this individual met the standards to become certified as a law enforcement instructor in the area listed. Retired Captain Sadler indicated that he did and recommended his approval as such. First Sergeant Tilley asked if there were any questions or discussion concerning the recommendation for this individual to be approved as instructor in the area of expertise recommended. Hearing none he asked if there was a motion to be made concerning them.

A motion was made by Sheriff McComas, seconded by Retired Sergeant Johnson that Chief J Corkrean be certified as a law enforcement instructor in the area of expertise listed. There being no discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

First Sergeant Tilley then initiated discussion on agenda item 5 by advising that it addressed the applications of the below listed individuals, previously certified as law enforcement instructors, who were seeking to be certified in the additional area/s of expertise listed. The following individuals were presented for consideration:

Lieutenant W Chedester
West Virginia university
Police Department

Police Firearms Instructor – Handgun
Police Firearms Instructor – Shotgun
Police Firearms Instructor – Patrol Rifle
Police Firearms Instructor – Precision Rifle

Lieutenant K Fike
Granville Police Department

Taser

Officer Richard Nelson
West Virginia
Natural Resource Police

Police Firearms Instructor – Handgun
Police Firearms Instructor – Shotgun

Sergeant C Shriner
West Virginia
Natural Resource Police

Basic Close Quarters Boat Handling

Detective Captain J Sizemore
Fayette County Sheriff's Office

Law Enforcement Response to
Active Shooter (LASER)

Corporal W Shambaugh
Morgan County Sheriff's Office

Police Firearms Instructor – Patrol Rifle

First Sergeant Tilley asked Retired Captain Sadler if these individuals advised met the standards to become certified as a law enforcement instructor in the additional areas listed. Retired Captain Sadler indicated that they did and recommended their approval as such. First Sergeant Tilley asked if there were any questions or discussion concerning the recommendation for these individuals to be approved as instructors in the additional areas of expertise recommended. Hearing none he asked if there was a motion to be made concerning them.

A motion was made by Retired Chief Stephens, seconded by Retired Sergeant Johnson, that these individuals be certified as law enforcement instructors in the additional areas of expertise listed. There being no discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

First Sergeant Tilley then initiated discussion on agenda item number 6A by advising the members present that with the end of the 2011 Training Year on July 9, 2011 that agenda item 6 had classes recommended for both the 2011 and 2012 Training Year that would begin on July 10, 2011. He noted that they would go through each type of training individually.

He noted that agenda item 6A addressed training programs that had been submitted for consideration for approval as annual in-service for the 2011 Training Year. The following annual level in-service training programs to be conducted during the 2011 Training Year were presented for consideration and approval:

CHARLESTON POLICE DEPARTMENT

Twenty-four (24) hours 13-15 Jun 11
Can-Am Spyder Motorcycle Rider Training Course
Instructor: Senior Patrolman R Coleman
 LET certified instructor in subject area
 Patrolman T Hill
 LET certified instructor in subject area
Charleston, WV

Seven (7) hours 6 Jun 11
SWAT Sniper Unit Training
Instructor: Detective C Snodgrass
 LET certified instructor in subject area
Charleston, WV

POCAHONTAS COUNTY SHERIFF'S OFFICE

Eight (8) hours 15 Jun 11
Taser Operator Training
Instructor: Captain T McCoy
 LET certified instructor in subject area
Marlinton, WV

WAYNE COUNTY SHERIFF'S OFFICE

Sixteen (16) hours 13-14 Jun 11
Specialty Impact Weapons
Instructor: Corporal S Poff
 LET certified instructor in subject area
Wayne, WV

**WEST VIRGINIA CHAPTER OF
NATIONAL ASSOCIATION OF DRUG DIVERSION INVESTIGATORS**

Seven (7) hours 23 Jun 11
Annual Conference of Drug Diversion Investigators
Instructor: Dr M O'Neil, PhD
 LET Certified instructor in subject area
 Sergeant M Lafauci
 West Virginia State Police
 Mr David Potter
 Executive Director
 West Virginia Board of Pharmacy
 Lieutenant J White

West Virginia State Police
Charleston, WV

First Sergeant Tilley asked Retired Captain Sadler if these classes met the criteria to be approved as annual in-service classes for the 2011 Training Year. He recommended they be approved as such. First Sergeant Tilley asked if there were any questions or comments concerning the recommended classes. Hearing none he asked if there was a motion to be made concerning them.

Sheriff McComas made a motion, seconded by Retired Chief Stephens, that the listed classes be approved for annual in-service hours as presented for the 2011 Training Year. There being no discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

First Sergeant Tilley then initiated discussion on agenda item 6B by advising the subcommittee members that there were no supervisory level courses to be considered for approval at this meeting for the 2011 Training year cycle.

First Sergeant Tilley then initiated discussion on agenda item 6C by presenting the following class for approval as personal in-service for the 2011 Training Year:

PARKERSBURG POLICE DEPARTMENT

Annual In-Service

Officer A Stout

Officer J Snyder

Twenty-four (24) hours 14-16 Jun 11

Commercial Motor Vehicle Criminal Interdiction

The 4:20 Group, LLC

Columbus, OH

First Sergeant Tilley asked Retired Captain Sadler if this class met the criteria to be approved as a personal in-service class as annual or supervisory as reflected for the 2011 Training Year. He stated that it did and recommended its approval as such. First Sergeant Tilley asked if there were any questions concerning the recommended class. Hearing none he asked if there was a motion for their approval.

Ms Singleton made a motion, seconded by Sheriff McComas, that the Commercial Motor Vehicle Criminal Interdiction class submitted by the Parkersburg Police Department be approved for personal in-service credit for the 2011 Training Year. There being no discussion on the motion First Sergeant Tilley called for

questions. All present voted in favor of, with no negative votes cast, for the motion as made.

First Sergeant Tilley then addressed agenda item 6D. The following annual level in-service training programs to be conducted during the 2012 Training Year were presented for consideration and approval:

NOTE: Detailed information on each of these classes as to dates, locations, hours and instructors was provided as part of the agenda packet for the June 30, 2011 mailing. Such information can be provided upon request to Retired Captain Sadler.

ACLU OF WEST VIRGINIA

Racial Profile Avoidance Training

FAYETTE COUNTY SHERIFF'S OFFICE

Defensive Tactics Refresher Training

MARSHALL UNIVERSITY – DEPARTMENT OF INTEGRATED SCIENCE AND TECHNOLOGY

Digital Evidence Concepts and Training

OHIO VALLEY TACTICAL

Explosive Breaching

UNITED STATES ATTORNEYS OFFICE – SOUTHERN DISTRICT OF WEST VIRGINIA

Prosecuting Domestic Violence, Sexual Assault, and Stalking Cases in Federal Court

WEST LIBERTY UNIVERSITY POLICE DEPARTMENT

Child Passenger Safety Technician Training

WEST VIRGINIA COURT APPOINTED SPECIAL ADVOCATES (CASA)

Children, Our Focus, Our Future

WEST VIRGINIA DEPARTMENT OF AGRICULTURE

Management of Responses to Animal Disease Incidents

WEST VIRGINIA DIVISION OF MOTOR VEHICLES

2011 National Conference – National Odometer and Title Fraud Enforcement Association (NOTFEA)

WEST VIRGINIA DEPARTMENT OF AGRICULTURE

Eight (8) hours 19 Jul 11

Management of Responses to Animal Disease Incidents

Instructor: Adjunct Staff

Kirkwood Community College, Cedar Rapids, Iowa

Federal vendor for provision of this training

Kearneysville, WV

First Sergeant Tilley asked Retired Captain Sadler if these classes met the criteria to be approved as supervisory in-service classes for the 2012 Training Year. He advised that they did and recommended their approval as such. First Sergeant Tilley asked if there were any questions concerning these classes. Hearing none he asked if there was a motion concerning the approval of these classes.

Ms Singleton made a motion, seconded by Retired Sergeant Johnson, that the classes presented and recommended be approved for supervisory in-service credit as presented for the 2012 Training Year. There being no discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

First Sergeant Tilley then initiated discussion on agenda item 6F by presenting the following class for approval as personal in-service for the 2012 Training Year:

VIENNA POLICE DEPARTMENT

Annual In-Service

Officer C Powell

Eight (8) hours 28 Jul 11

Drag Factor Determination for the Traffic Collision Investigator

OPOTA

London, OH

First Sergeant Tilley asked Retired Captain Sadler if this class met the criteria to be approved as personal in-service classes as annual or supervisory as reflected for the 2012 Training Year. He stated that it did and recommended its approval as such. First Sergeant Tilley asked if there were any questions concerning the recommended classes. Hearing none he asked if there was a motion for their approval.

Sheriff McComas made a motion, seconded by Retired Sergeant Johnson, that the crash related training course presented by the Vienna Police Department be approved for personal in-service credit for the 2012 Training Year. There being no

discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

First Sergeant Tilley then advised the members present that as to the regularly set agenda items 7 through 10 which address personnel related issues that there was no discussion needed on agenda item 7 as no Orders to Stop Working had been issued but that there were items to be discussed under agenda items 8, 9 and 10. As such he asked for a motion for the subcommittee to go into executive session.

Sheriff McComas made a motion, seconded by Retired Sergeant Johnson, that the LEPS Subcommittee go into executive session to address the personnel related matters concerning agenda items 8, 9 and 10. There being no discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

The LEPS Subcommittee went into executive session at 9:16 a.m. It came out of executive session at 11:08 a.m. following a discussion on these agenda items and on a motion made by Retired Sergeant Johnson, seconded by Chief Stephens, to come out of executive session which was approved unanimously by the members present.

First Sergeant Tilley noted once again that there was no motion/action required pertaining to agenda item 7 as there had been no stop work orders issued since the last subcommittee meeting.

First Sergeant Tilley noted that as to agenda item 8A that there was no action required as the Officer involved had resigned and would not be attending the entry level training program.

First Sergeant Tilley noted that as to agenda item 8B that there was no action required as the Officer involved had previously attended the entry level training program and been certified as a West Virginia law enforcement officer. Due to a break in service as a West Virginia law enforcement officer of more than twenty-four (24) months he was now required to participate in the re-certification program. A standard records check had identified a prior minor misdemeanor related conviction from well before he had originally attended the Academy and gained his certification.

Due to the nature of the charge, conviction, timeframe and no other report of activity that needed to be reviewed by the subcommittee First Sergeant Tilley noted that there was no review/action required and that the Officer in question would be allowed to participate in the re-certification training. The members present expressed their consensus approval of the disposition of this agenda item.

First Sergeant Tilley asked if there was a motion to concerning agenda item 9A as to certification review that had been reviewed during the executive session.

Ms Singleton made a motion, seconded by Retired Chief Stephens, that law enforcement certification of Officer Eric Lynch be decertified as a result of the totality of the circumstance addressing the criminal plea that he had entered into, the pattern of conduct pertaining to the charge that had been brought and the information presented to the subcommittee members during this meeting as to investigation by the Mason County Sheriff's Office and by Officer Lynch himself. There being no discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

First Sergeant Tilley asked if there was a motion to concerning agenda item 9B as to certification review that had been reviewed during the executive session.

Retired Lieutenant Walker made a motion, seconded by Sheriff McComas, that law enforcement certification of Former Officer Michael Kendall be decertified as a result of the totality of the circumstance addressing the criminal plea that he had entered into, the pattern of conduct pertaining to the charges that had been brought and as a result of his agreement in court proceedings concerning his actions in this matter to surrender his certification as a West Virginia law enforcement officer. There being no discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

First Sergeant Tilley noted that there was no motion/action required pertaining to agenda item 9C as action had been previously taken by the subcommittee members at their January 28, 2010 meeting to decertify the law enforcement certification of Former Deputy Rick Bennett. It was noted that he had requested to come before the subcommittee members to discuss that decertification and that he had been invited to appear at this meeting. He had not so appeared nor presented any additional information showing why the prior decision of the subcommittee should be reviewed. As such it was the consensus agreement of the members present that it's prior action on the matter stand as to his decertification.

First Sergeant Tilley asked if there was a motion to concerning agenda item 9D as to the draft position statement, copy provided under Appendix 1 of these minutes, concerning the action by the subcommittee members at their May 26, 2011 meeting to decertify the law enforcement certification of Former Deputy Benjamin Wilfong.

Sheriff McComas made a motion, seconded by Retired Sergeant Johnson, that Position Statement concerning the actions of the subcommittee members at their May

26, 2011 meeting as to the certification review of Former Deputy Benjamin Wilfong reflected the reasons that the members had voted to revoke his law enforcement certification. There being no discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

First Sergeant Tilley asked Retired Captain Sadler to have the approved Position Statement to be mailed to Former Deputy Wilfong and that applicable entry concerning the subcommittee's actions be reflected within his records. Retired Captain Sadler responded that he would do so.

First Sergeant Tilley asked if there was a motion to concerning agenda item 10A as to the request for an individual to attend the entry level training program as a private citizen that had been reviewed during the executive session.

Retired Sergeant Johnson made a motion, seconded by Retired Chief Stephens, that the request by Former Officer Brandon Cline to attend the entry level training program as a private citizen be approved. There being no discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

First Sergeant Tilley asked if there was a motion to concerning agenda item 10B as to the request for an individual to attend the entry level training program as a private citizen that had been reviewed during the executive session.

Sheriff McComas made a motion, seconded by Retired Sergeant Johnson, that the request by Former Deputy Joshua Bailey to attend the entry level training program as a private citizen be approved. There being no discussion on the motion First Sergeant Tilley called for questions.

Colonel Murphy called for a roll call vote on the motion. The following votes were recorded concerning the motion on agenda item 10B when each member was asked by First Sergeant Tilley:

Colonel Murphy – Against the motion
Retired Sergeant Johnson – For the motion
Retired Chief Stephens – Against the motion
Sheriff McComas – For the motion
Retired Lieutenant Walker – Against the motion
Retired Lieutenant Miller – Against the motion
Mr McClung – For the motion

Ms Singleton – Against the motion

Retired Captain Sadler noted that the vote concerning the motion was three (3) votes in favor of it and five (5) against it.

First Sergeant Tilley advised that there being a majority of the members present having voted against the motion that there was not a need for him to vote in his position as subcommittee chair. The motion as presented did not pass so Former Deputy Joshua Bailey will not be allowed to participate in the entry level training program as a private citizen.

First Sergeant Tilley advised the members that there was no action required on agenda item 10C as a request had been made following the agenda mailing, but prior to this meeting by the attorney representing the former officer involved to continue the discussion on this request to the July 28, 2011 meeting. That request had been approved and the matter tabled until that meeting.

First Sergeant Tilley noted that as to agenda item 11 that, as had been discussed at the start of this meeting, that it was being tabled to allow for continued development of the proposed schedule changes to the entry level training program. When completed they would be provided to the members for review and consideration at a later meeting.

First Sergeant Tilley then began discussion on agenda item 12 by advising the members that it addressed an update on the actions taken since their May 26, 2011 meeting concerning legislative rules CSR 149-2 and 6. He asked Retired Captain Sadler to address those actions.

As to CSR 149-6 Retired Captain Sadler advised that the new rule concerning Consent to Search Motor Vehicles had been filed for public comment with the Secretary of State's Office. The public comment period would be running until July 6, 2011. To date no public comments had been received. Any comments received are to be acted upon by the subcommittee members at their July 28, 2011 meeting with filing of such action/review with the Secretary of State's Office by July 29, 2011.

As to CSR 149-2 Retired Captain Sadler advised that the changes to rule concerning the law enforcement training and certification program had been filed for public comment with the Secretary of State's Office. The public comment period would be running until July 6, 2011. To date one public comment had been received as to the requirement for an officer to notify the subcommittee upon being arrested for any charge with the exception of minor traffic offenses. That comment and any comments received

are to be acted upon by the subcommittee members at their July 28, 2011 meeting with filing of such action/review with the Secretary of State's Office by July 29, 2011.

Retired Captain Sadler also noted that as to CSR 149-2 that it had been filed for emergency rule approval in that a number of the changes recommended by the subcommittee members at their prior rules review meeting April 26-27, 2011 directly related to the statutory changes to West Virginia State Code §30-29-5 that took effect June 10, 2011. The Secretary of State's Office was reviewing that request and should be deciding on it prior to the July 28, 2011 meeting.

First Sergeant Tilley asked if there were any questions concerning the legislative rules actions taken on their behalf by Retired Captain Sadler. There were none so he began discussion on agenda item 13 by advising the members that it addressed the development of required training as to organized criminal enterprises and anti-racial profile training. He advised the members that development was ongoing at this time.

There being no questions concerning agenda item 13 First Sergeant Tilley informed the members that agenda item 14 was a response by Retired Captain Sadler to a Freedom of Information Act (FOIA) request concerning an officer's training and certification records. There had been no follow up from the law firm involved as to any additional information being requested or sought under a court order.

There being no questions concerning agenda item 14 First Sergeant Tilley noted that agenda item 15 was a reminder to them that the August 25, 2011 subcommittee meeting would be at the Charleston Civic Center and that it would precede a full meeting of the Governor's Committee on Crime, Delinquency and Correction. Each member was asked to keep his/her schedule open for the full day to allow attendance at both meetings.

There being no questions concerning agenda item 15 First Sergeant Tilley noted that agenda item 16 addressed actions taken on their behalf since the May 26, 2011 meeting. There being no questions concerning any of the information provided he moved to address agenda item 17.

As had been approved by the members at the start of this meeting he noted that agenda item 17 addressed an application for the operation of the 147th Basic Class. A copy of the grant application, provided under Appendix 2 of these minutes, had been given to the members during the meeting for their review.

The application was for \$153,324 to operate the 147th Basic Class over the dates of July 18, 2011 to November 4, 2011. The application was in line with prior such

applications. Retired Captain Sadler noted that there were remaining Perdue Pharma related funds to cover the larger part of the funding request with any difference to come from the LEPS Fund. He recommended the application for approval as there was funding to cover the cost of the application.

First Sergeant Tilley asked if there were any questions concerning the application. Hearing none he asked if there was a motion to be made concerning it.

Sheriff McComas made a motion, seconded by Ms Singleton, that the application for \$153,324 for the operation of the 147th Basic Class be approved with funding to come from remaining Perdue Pharma funds and the LEPS Fund as required. There being no discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

First Sergeant Tilley asked if there was any other business to be discussed. Hearing none he did note that he wanted to recognize Major M DeBord and Captain David Lee, who were both present. He noted that Major DeBord, Director of Training at the Academy would be retiring and that Captain Lee would be assuming the position of Director of Training. The members present expressed their appreciation to Major DeBord for all that he had done in support of their efforts and his operation of the Academy at the high standards that he had. They congratulated Captain Lee on his placement as the Director of Training at the Academy.

First Sergeant Tilley once again asked if there was any other business to be discussed. There being none, he, asked if there was a motion to bring the meeting to a close.

Ms Singleton made a motion, seconded by Retired Sergeant Johnson, that the June 30, 2011 meeting of the LEPS Subcommittee be brought to a close. There being no discussion on the motion First Sergeant Tilley called for questions. All present voted in favor of, with no negative votes cast, for the motion as made.

The June 30, 2011 meeting of the LEPS Subcommittee to a close at 11:32 a.m.

APPENDIX 1

DRAFT POSITION STATEMENT

FORMER DEPUTY B WILFONG

LAW ENFORCEMENT TRAINING SUBCOMMITTEE
DRAFT
– Position Statement –

RE: The matter of **Benjamin Wilfong and the review of his certification as a law enforcement officer by the** Law Enforcement Training (LET) Subcommittee of the Governors Committee on Crime, Delinquency and Correction

Date: June 30, 2011

On May 26, 2011 the LET Subcommittee revoked the certification of **Benjamin Wilfong** as a law enforcement officer in West Virginia. The action took place by unanimous vote.

By the authority provided for in the West Virginia Code of State Rules §149-2-16. it is the policy of the LET Subcommittee to review the admission of guilt, or conviction(s) of criminal offenses of certified law enforcement officers, or those individuals employed as law enforcement officer who are in the process of completing certification as a law enforcement officer. The purpose of the review is to determine if there has been conduct, or a pattern of conduct, unbecoming to an officer or activities by that law enforcement officer that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement.

The LET Subcommittee became aware, through public record, that Benjamin Wilfong had been charged with four (4) counts of Counterfeiting as a result of actions occurring on or about 30 Jan 09 to 13 Feb 09 and one count of Obtaining Goods Under False Pretenses as a result of actions occurring on or about the period of 18 Jan 03 to 6 Aug 05. It also became aware that on 9 Jul 10 that as a result of a plea agreement entered into by Benjamin Wilfong on 6 Apr 10 for one count of Attempt to Obtain by False Pretenses that he was sentenced to a period of confinement for six (6) months in the regional jail and a fine of one hundred (\$100) dollars and for a second count of Attempt to Obtain by False Pretenses for which he received the same sentence, these sentences to run concurrently under the home incarceration program. He was also ordered, as a result of these pleas, to perform two hundred (200) hours of community service, to perform a letter of apology to the victim in the matter and to pay applicable court costs and fees.

Benjamin Wilfong was invited to the May 26, 2011 meeting of the LET Subcommittee for the review described in the second paragraph to take place. Benjamin Wilfong was informed that he would have the opportunity to present any statements and/or information to the LET Subcommittee at that meeting addressing the circumstance leading to the original charges and to the plea agreement that he had entered into.

Benjamin Wilfong did appear at the May 26, 2011 meeting and met with the LET Subcommittee members.

Benjamin Wilfong

LET Subcommittee Review of Certification

June 30, 2011

Page two of two

DRAFT POSITION STATEMENT

At the May 26, 2011 meeting the LET Subcommittee members were presented with information concerning (1) Criminal Case History for the four (4) charges of Counterfeiting (2) Criminal Case History for the one (1) charge of Obtaining Goods Under False Pretense (3) Warrant for Arrest for four (4) counts of Counterfeiting and one (1) count of Obtaining Goods Under False Pretense (4) Criminal Complaint concerning the four (4) charges of Counterfeiting (5) Criminal Complaint concerning the one (1) charge of Obtaining Goods Under False Pretense (6) Misdemeanor Information for two (2) charges of Attempt to Obtain Goods Under False Pretense and (7) Judgment Order and Order concerning the plea agreement entered into and the sentence imposed.

As noted Benjamin Wilfong did attend the May 26, 2011 meetings of the LET Subcommittee and spoke with the members present as to the circumstances and his actions on and since the actions relating to the incidents involved which resulted in the charges made and the plea entered into.

The LET Subcommittee members, having been provided with the information described, considered the matters of record relating to incidents in which Benjamin Wilfong was involved in on the dates previously cited, the plea agreement he entered into and the information that he presented to them during his discussion with them as to his actions which led to charges brought.

Following the consideration by the members present of the information presented to them, it was the unanimous decision of the LET Subcommittee that Benjamin Wilfong should not retain his certification as a law enforcement officer in the State of West Virginia. Only after considering the "totality of circumstances" in this matter did the LET Subcommittee render its decision on May 26, 2011. In this context, utilizing the "totality of circumstances" is not intended to suggest or imply that without one or more of the circumstances present, the LET Subcommittee would have arrived at a different decision.

The LET Subcommittee clearly recognizes the significance, magnitude and consequence of this decision and invested deliberation and thought in coming to the decision that it did; however, it is the determination of this body that to allow Benjamin Wilfong to continue as a certified law enforcement officer in this state when there was "conduct, or a pattern of conduct, unbecoming to an officer or activities by that law enforcement officer that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement" outweighs any significance or magnitude of that decision upon the individual.

Benjamin Wilfong

LET Subcommittee Review of Certification

June 30, 2011

Page three of three

DRAFT POSITION STATEMENT

This body has been legislatively tasked with making determinations on whether or not an individual can become or remain as a certified law enforcement officer in the State of West Virginia. Based on the above not a single member of this Subcommittee can, in good conscience, allow Benjamin Wilfong to remain certified as a law enforcement officer in this State.

The West Virginia Division of Criminal Justice Services was directed to draft this statement reflecting the decision of the Subcommittee.

Nothing follows

APPENDIX 2

147TH BASIC CLASS

GRANT APPLICATION

