

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

December 12, 2013

MEMBERS PRESENT: Retired Chief Steve Stephens
Sheriff Tom McComas
Retired Lieutenant Dave Malcomb
Retired Lieutenant Steve Walker
Ms. Patti Hamilton

MEMBERS REPRESENTED: Colonel Jay Smithers by
Captain David Lee
Colonel David Murphy
Lieutenant Tim Coleman
Retired Lieutenant Terry Miller by
Retired Corporal Dave Gentry

MEMBERS ABSENT: Judge Phyllis Carter

STAFF: Director Norb Federspiel
Retired Captain Chuck Sadler
Associate Deputy Director Leslie Boggess
Ms. Kimberly Mason
Ms. Judy Strickland

The December 12, 2013 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee was called to order at 9:13 a.m. by the Chair Retired Chief Steve Stephens. There were nine (9) members either present or represented at the start of the meeting. Ms. Hamilton left the meeting at 12:07 p.m. due to a prior commitment before the members came out of executive session at 12:10 p.m.

Retired Chief Stephens informed the Committee that Ms. Suzan Singleton, a longtime member, has been appointed to the Ethics Committee and will no longer be able to serve on the LEPS Subcommittee.

The Subcommittee presented a plaque to the Director of the Division of Justice and Community Services, Mr. Norb Federspiel who is retiring on December 31, 2013. The members wanted to thank Mr. Federspiel and express their appreciation of everything that he has done as Director in working with the LEPS Subcommittee. Mr. Federspiel expressed his thanks for their recognition and the work they carry out.

The following actions were taken during this meeting in reference to the agenda items scheduled:

1. Agenda Item 1 – Notice of additional items to be added to agenda provided to Subcommittee Chair. Retired Captain Sadler advised the members that he had given out information prior to the start of the meeting addressing scheduled agenda items. Those items were:
 - A. The LEPS Subcommittee meeting schedule for 2014 concerning Agenda Item 20.
 - B. Copy of correspondence sent to Legislative leadership outlining the funding problems facing the LEPS Fund concerning Agenda Item 15.
 - C. A resume/training background for Director Roberts, WVU PD, who was present to discuss his desire to be approved to instruct the Basic Instructor Development Course concerning Agenda Item 5B.
2. Agenda Item 15 – Retired Chief Stephens requested, in that Mr. Brightwell, staff member for the House of Delegates Finance Committee Chair R. Prezioso, was present in response to the letters Retired Captain Sadler had sent out, that Agenda Item 15 be discussed at this time. The members present agreed that it be addressed at this time.

Retired Captain Sadler reviewed the information which had been sent to the legislative leadership as to the situation that the current and projected expenses and revenues for the LEPS Fund would cause it to reach a zero balance near the middle of 2016, likely near the start of Fiscal Year 2017. There were limited ways to reduce the costs involved without having fewer Basic Classes. Doing that, however, would cause a likely backlog in officers waiting to complete training.

Ways to increase revenue were limited as well. Increasing the current \$2 fee or increasing the tuition cost to attend the Academy would not cause the LEPS Fund to reach a level where the fund level did not continue to be a problem. The need to identify a funding source that would adequately fund the training program was noted.

Mr. Brightwell noted his recognition of the seriousness of the problem. The legislature supports the training of law enforcement officers within the state, but he advised the members as they continue to work with the legislature on this that the more solutions the Subcommittee members could offer the more likely the legislative members would be in providing the necessary approval of one of them.

Retired Captain Sadler noted that in response to the correspondence sent that meeting had been set with Senate President Kessler prior to the start of the 2014 Legislature on January 6th to discuss this issue. Senator Laird is expected to attend as well. Retired Chief Stephens would be attending along with Mr. Estep, Ms. Boggess, and Retired Captain Sadler. An invitation was extended to any of the other Subcommittee members who wished to attend.

3. Agenda Item 2 – Motion made, Retired Lieutenant Walker, seconded, Sheriff McComas, to accept the minutes of the October 31, 2013 meeting. Motion approved unanimously with no discussion.
4. Agenda Item 3 – Retired Captain Sadler advised the Subcommittee that there was balance of \$552,641.03 in the LEPS Fund as of December 6, 2013. No questions were presented to Retired Captain Sadler concerning the fund balance.
5. Agenda Item 4 – Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker, the approval of individuals listed in the agenda packet and the supplemental listing be certified as law enforcement instructors. Motion approved unanimously with no discussion.
6. Agenda Item 5A – Motion made, Lieutenant Malcomb, seconded, Retired Lieutenant Walker, the approval of applications for additional areas of expertise to be approved for previously certified law enforcement instructors. Motion approved unanimously with no discussion.
7. Agenda Item 5B – Discussion and approval of individuals to present the Basic Instructor Development Course tabled from the October 31, 2013 meeting. Captain Lee advised that Sergeant Oglesby's name and his had been withdrawn from the three names discussed during the October 31st

meeting. Sergeant Portaro's name remained and Captain Lee recommended his approval as the instructor for the Basic Instructor Development Course.

On questioning from the members, Captain Lee noted that Sergeant Oglesby and himself would be available to assist Sergeant Portaro in the presentation of the class. The members discussed the general requirements to teach the class and the makeup of the class.

Motion made, Sheriff McComas, seconded as a matter of discussion by Retired Lieutenant Walker, to approve Sergeant Portaro to be eligible to teach the Basic Instructor Development Course. Motion passed unanimously.

The members then asked that the Division of Justice and Community Services (DJCS) establish set criteria listing the qualifications needed to teach this class. Retired Lieutenant Walker said there is a need to set up guidelines for Train the Trainers in order to assure that the same thing is being taught by these instructors throughout the State.

Chief Bob Roberts, WVU PD, appeared before the members to express his interest in becoming an instructor for the Basic Instructor Development Class. He discussed his qualifications to teach the Basic Instructor Development Course especially since there is not an instructor in the northern part of the State. It was the consensus decision of the members present that before anyone else is approved as an instructor for this class, that Retired Captain Sadler and the DJCS will provide a set of criteria to be used as guidelines in approving instructors, and what is to be taught, for this class. Retired Captain Sadler stated that he would seek information on similar courses and train the trainer instructor guidelines from other states.

8. Agenda Item 6A – Motion made Sheriff McComas, seconded by Captain Lee, that the classes listed in the agenda packet be approved for annual in-service credit. Motion approved unanimously with no discussion.
9. Agenda Item 6B – Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker, that the listed classes be approved for supervisory in-service training credit. The motion was approved unanimously with no discussion.
10. Agenda Item 6C – Motion made, Sheriff McComas, seconded, Retired Corporal Gentry, that the listed classes in the agenda packet be approved for personal in-service training credit. The motion was approved unanimously with no discussion.
11. Agenda Item 6D1 – Motion made, Sheriff McComas, seconded by Lieutenant Coleman that the PDC courses listed for January 2014 through June 30, 2014

included in the agenda packet are approved for in-service training. It was noted that there is an incorrect course description given under Identity Theft Investigations found on page 45. Captain Lee said he will have the appropriate course description submitted. No further discussion or questions. The motion was approved unanimously.

12. Agenda Item 6D2 – The West Virginia State Police 2014 Spring Course Catalog. It was noted that on page 28 of the catalog (Retired Captain Sadler's page 57 of the catalog) under Training Staff and Adjunct Instructors, bio description in second paragraph for Trooper #2 is the same as bio description for Trooper #1. Captain Lee said he will have appropriate bio information added to Trooper #2. No action required, the catalog was presented for information purposes.
13. Agenda Item 7 – Order to Stop Working. There were none, no action required.
14. Agenda Item 8 – Criminal Conviction Records as to applicants for entry level training program. There were none, no action required.
15. Agenda Item 9 – Request to attend the Entry Level Training Program as a Private Citizen – Tuition Waiver Request. There were none, no action required.
16. At the indication of Retired Chief Stephens that there were personnel related matters to be discussed under Agenda Items 10A, 10B, 10C, 11A, and 11B, a motion was made by Sheriff McComas, seconded, Retired Corporal Gentry and approved unanimously without discussion for the Subcommittee to go into executive session at 9:54 a.m. Motion made, Sheriff McComas, seconded, Captain Lee and approved unanimously without discussion for the Subcommittee to come out of executive session at 12:10 p.m.
17. Agenda Item 10A – Retired Chief Stephens noted that Officer #1 was invited to appear before the Subcommittee at the December 12, 2013 LEPS meeting for a certification review. A certified letter to this officer was returned because address used is not a current address and there is no current address on file. No action can be taken at this meeting because officer cannot be notified. Should this officer attempt to work again in West Virginia a certification review will be set first to determine the status of his certification.
18. Agenda Item 10B – Officer #2 – Draft Position Statement concerning this officer from action taken during the October 31, 2013, LEPS meeting, based on his plea to the charge in the information filed. Certification revoked on October 31, 2013. Motion made, Sheriff McComas, seconded by Captain Lee to accept the position statement as drafted by Retired Captain Sadler as

reflecting the actions of the members at their October 31, 2013 meeting to revoke the certification of this officer.

19. Agenda Item 10C – Officer #3 – Appeal of law enforcement certification revocation action from 2010 which was tabled from October 31, 2013 meeting. This officer and his attorney did appear before the Subcommittee during the executive session.

Retired Chief Stephens asked the members if there was any motion to be made concerning this officer. He asked again. Hearing none he advised the members that revocation of the officer decided upon during the May 27, 2010 Subcommittee meeting would remain in place.

20. Agenda Item 11A – Motion made, Sheriff McComas, seconded, Lieutenant Malcomb, to approve the full reactivation of the law enforcement certification of all the officers (16) listed in the agenda handout with the exception of officer #5 on the list as there was a question about the circumstances under which he had resigned. The motion was approved unanimously with no further discussion. Ms. Mason advised the members that she would seek to secure information on Officer #5's resignation for consideration at the January 30, 2014 meeting.
21. Agenda Item 11B – Review of reactivation requests where the officer had left prior agency with standing in question. Officer and his attorney appeared before the Committee. Motion made, Sheriff McComas, seconded by Lieutenant Malcomb to approve the reactivation of certification of this officer. The motion was approved unanimously.
22. Agenda Item 12 – Determination of required training for recertification following separation of more than sixty (60) months as a West Virginia law enforcement officer. There were none. No action required.
23. Agenda Item 13 – Equivalent certification program reviews as to decisions made. There were none. No action required.
24. Agenda Item 14 – Review of officer's ability to enter and complete the entry level training program. This officer was to submit a doctor's release showing that he is able to attend the 157th Basic Class beginning January 6, 2014 or the officer was to appear before the Committee at today's meeting. Documentation was submitted showing that he had been summoned to testify in a circuit court matter; however, a doctor's release was submitted before today's meeting allowing him to attend the 157th Basic Class so no action is required.

25. Agenda Item 15 – Addressed at the beginning of the meeting with the consensus approval of the members present.
26. Agenda Item 16 – Request from the WVSP for \$133,198 from the LEPS Fund for the operation of the 157th Basic Class which will run January 6, 2014 to April 25, 2014. Retired Captain Sadler advised that it is believed that Perdue Pharma Funds are available for this class. Ms. Boggess is to confirm. Motion made, Sheriff McComas, seconded by Lieutenant Malcomb to approve the funding of the 157th Basic Class or to use LEPS funds if Perdue Pharma funding is not available. Motion was approved unanimously.
27. Agenda Item 17 – Listing of Instructor Areas of Expertise (AOEs) with LEPSIS. This list was distributed for informational purposes only.
28. Agenda Item 18 – Retired Captain Sadler gave an update on Legislative Rule 149-2 – Proposed changes for the 2014 Legislative Session. He informed the members that everything is going smoothly. Rule will be reviewed again during 2014 Legislative session.
29. Agenda Item 19 – Ms. Mason gave a LEPSIS (Law Enforcement Professional Standards Information System) Program Update. She informed the Committee that 2,000 officers have now signed up for portal accounts within the system that allows them to view their officer training records within the system. There continues to be good feedback from administrators and officer concerning LEPSIS.
30. Agenda Item 20 – The members were reminded that the next scheduled LEPS Subcommittee meeting is scheduled for January 30, 2014. A list of the meeting dates for 2014 had been distributed before the meeting began.

Retired Captain Sadler did note due to state budget issues that the scheduling, as to length and location, of the April 2014 Legislative Rules Review might have to be modified. He will keep the members informed.

There being no further agenda items set for discussion a motion was made by Sheriff McComas, seconded by Captain Lee to adjourn this meeting. Meeting adjourned at approximately 12:25 p.m.