

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

October 31, 2013

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

MEMBERS REPRESENTED: Colonel Jay Smithers by
Captain David Lee
Colonel David Murphy
Lieutenant Tim Coleman
Retired Lieutenant Terry Miller by
Retired Corporal Dave Gentry
Judge Phyllis Carter by
Retired Sergeant J. L. Johnson
Ms. Patti Hamilton
Mr. Jack McClung

MEMBERS ABSENT: Mayor Arthur Auxer

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

The October 31, 2013 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee was called to order at 9:07 a.m. by Chair Retired Chief Steve Stephens. There were ten (10) members either present or represented.

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 that there were additional items to be considered for approval under Agenda Item 6. He noted that the members had been provided a listing of those items.
2. Agenda Item 2 – Motion made, Retired Lieutenant Walker, seconded, Retired Sergeant Johnson to accept the minutes of the September 26, 2013 meeting with a correction on page 4 addressing Agenda Item 20 of that meeting to reflect the training discussed as a three week program. Motion approved unanimously with no discussion.
3. Agenda Item 3 – Retired Captain Sadler advised the Subcommittee that there was \$499,066.73 in the LEPS Fund as of October 28, 2013. He noted that the projected funding levels of the LEPS Fund, as to the projected shortfall in the fund previously discussed at prior meetings, was set for additional discussion during today's meeting under Agenda Item 15. Consensus approval of the report was noted by Chair Retired Chief Stephens.
4. Agenda Item 4 – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, 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.
5. Agenda Item 5 – Consideration of applications for additional areas of expertise to be approved for previously certified law enforcement instructors. Captain Lee provided the members with handouts referencing three (3) officers from the Academy staff seeking approval to teach the Basic Instructor Development Class. Currently Retired Lieutenant Tilley, West Virginia State Police, and Mr. H. Carlile, FBI, CJIS Center in Clarksburg/Fairmont area who teaches their version of this program there, are the only individuals approved to teach the Basic Instructor Development Course in the State. Due to Retired Lieutenant Tilley's current responsibilities, he will not always be available to teach this class.

There was a discussion by the members concerning the training and experience that instructors need to have to be approved to teach the course. To allow the members to be able to make a more detailed evaluation of the three instructors who have been recommended, a motion was made by

Sheriff McComas, seconded by Retired Sergeant Johnson, that the consideration of the approval of these individuals be tabled until the December 12, 2013 meeting to allow more information to be provided on these instructor's backgrounds and consideration given to the requirements to be met to be approved to teach this class. Motion approved unanimously with no discussion.

6. Agenda Item 6A – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson that the classes listed in the agenda packet and the supplemental materials be approved for annual 2014 in-service credit. Motion approved unanimously with no discussion.
7. Agenda Item 6B – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the listed classes be approved for supervisory in-service training credit. The motion was approved unanimously with no discussion.
8. Agenda Item 6C – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the listed classes in the agenda packet and in the supplemental listing be approved for 2014 personal in-service training credit. The motion was approved unanimously with no discussion.
9. At the indication of the Chair that there were personnel related matters to be discussed under Agenda Items 6D, 7A, 7B, 10A, 10B, 10C, 11A, 11B, 11C, 13A, and 13B a motion was made by Retired Corporal Gentry, seconded, Retired Sergeant Johnson and approved unanimously without discussion for the Subcommittee to go into executive session at 9:16 a.m. Motion made, Sheriff McComas, seconded, Ms. Singleton and approved unanimously without discussion for the Subcommittee to come out of executive session at 11:07 a.m.
10. Agenda Item 6D – Discussion on firearms instructor level class tabled from September 26, 2013 LEPS meeting. The instructor seeking approval of this course was present at this meeting and spoke with the members as to the need for the approval of this course. The discussion by the members and the instructor addressed whether the course should be approved as an instructor level class or be approved as training to provide officers attending with skills in low lighting shooting techniques. Motion made, Sheriff McComas, seconded by Retired Sergeant Johnson, the course be approved as a Low Light Shooting Techniques training course. The motion was approved unanimously with no further discussion.
11. Agenda Item 7A – Order to Stop Working. Provided for informational purposes, no action required.

12. Agenda Item 7B – Appeal of stop work order issued in 2007. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson to lift the stop work order that is in place and allow this individual to once again be hired by a law enforcement agency at which time he would have to attend and complete the required entry level training program to gain certification as a law enforcement officer. The motion was approved unanimously with no discussion.
13. Agenda Item 8 – Criminal Conviction Records as to applicants for entry level training program. There were none, no action required.
14. Agenda Item 9 – Request to attend the Entry Level Training Program as a Private Citizen – Tuition Waiver Request. There were none, no action required.
15. Agenda Item 10A – Instructor certification review. Follow-up from discussion at the September 26, 2013 meeting on Agenda Item 10. The item was presented for informational purposes, no action required.
16. Agenda Item 10B – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to revoke this officer's certification based on his plea to the charge in the information filed and that a Position Statement be prepared concerning this revocation. The motion was approved unanimously with no discussion.
17. Agenda Item 10C – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to table the appeal of this officer's revocation of law enforcement certification until the December 12, 2013, meeting at the request of the officer involved due to his attorney having a scheduling conflict. The motion was approved unanimously with no further discussion. Retired Captain Sadler advised that he would be securing additional information relating to this officer's appeal. That information would be provided to the officer and his attorney prior to the next meeting, and to the members as part of the agenda mailing packet.
18. Agenda Item 11A – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to approve the full reactivation of the law enforcement certification of the officers (16) listed. The motion was approved unanimously with no discussion.
19. Agenda Item 11B – Review of reactivation requests where the officer had left prior agency not in good standing. This matter had been tabled from the October 31, 2013 meeting to allow the officer to be present to discuss his reactivation request. The involved officer and his Chief were present at this meeting. Motion made, Lieutenant Malcomb, seconded, Retired Sergeant

Johnson, to approve the reactivation of certification of this officer. The motion was approved unanimously with no discussion.

20. Agenda Item 11C – Answer provided to a Chief of Police with reference to a reactivation review and former employee. This was provided to the Committee for informational purposes only. No action required.
21. 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.
22. Agenda Item 13A – Records and training reviews where the officers were approved to participate in 2014 equivalent certification program. Provided to Committee for informational purposes. No action required.
23. Agenda Item 13B – Records and training reviews where the officers were denied to participate in equivalent certification program. Provided to Committee for informational purposes only. No action required.
24. Agenda Item 14 – Review of officer's ability to enter and complete the entry level training program. There were none. No action required.
25. Agenda Item 15A – Discussion concerning additional revenue sources for the LEPS Fund – Projected fund levels. Retired Captain Sadler reviewed the information provided in the agenda mailing addressing the current funding level of the LEPS Fund and the upcoming projected requests for funding from it. At its current level, and projected revenue from the \$2 court cost fee, these projections will likely result in the fund level reaching a point in two to three years where it will be unable to fund the training programs/activities it does at this time. Absent a supplemental funding source, such as the prior provision of Perdue Pharma funds, being identified/provided officer entry level training will have to be delayed. There being no questions or further discussion on the fund levels Retired Captain Sadler began a discussion concerning Agenda Item 15B.
26. Agenda Item 15B – Discussion concerning additional revenue sources for the LEPS Fund – Projected solutions to address. Retired Captain Sadler noted that he recognized that potential solutions developed required legislative action that the member's respective executive boards and membership may have to approve. Reviewed the recommendations by Subcommittee members as to:
 1. P. Hamilton – that the Subcommittee members may want to work with other entities/organizations receiving funds from the court cost distributions concerning collection efforts from individuals who have

been assessed the fee but have not paid it, in full or in part, and are delinquent.

2. S. Singleton – that an invitation be sent to legislative leaders and finance committee chairs to a Subcommittee meeting to discuss the funding issues. Retired Captain Sadler also reviewed the consideration of requesting that a line item be established in the state budget in the amount of \$1 million annually to cover training and certification related costs. As a result, the discussion on this agenda item, it was the consensus agreement of the members that the President of the Senate, Speaker of the House, respective Finance Committee Chairs, and Senator Laird be invited to the December 12, 2013 meeting.

27. Agenda Item 16 – Retired Captain Sadler gave an update on the statewide mailing that was made to each of the state’s approximately 3,500 law enforcement officers. The contents of this mailing, sample of the mailing provided in the agenda packet, provided general update information on law enforcement training and certification related items, to include changes in Amber Alert system, DV Registry, and an officer and family support program.

28. Agenda Item 17 – Retired Captain Sadler provided the Committee with a copy of an article that ran in the October 26, 2013 issue of the Charleston Gazette where he had discussed and explained the tracking and enforcing of firearms qualifications through the new LEPSIS program we now have. The article had been developed by the reporter involved as a follow-up to the prior legislative audit of the DJCS officer overall and the LEPS Program specifically as to its responsibilities in tracking the training, qualifications and certification of officers within the state.

29. Agenda Item 18 – Retired Captain Sadler provided an update on the West Virginia Eyewitness Identification Policy and discussed the statutory requirement passed during the 2013 legislative session that all West Virginia law enforcement agencies have a policy in place by January 1, 2014 to their eyewitness ID practices and procedures. He also discussed the ongoing actions of the West Virginia Innocence Project concerning educating officers on the value of taping interrogations.

30. Agenda Item 19 – Retired Captain Sadler provided an update on Legislative Rule 149-2 as to the proposed changes under consideration during the for the 2014 Legislative Session. All required filings and actions have been completed. The next review will be during the legislative session.

31. Agenda Item 20 – Ms. Mason gave a LEPSIS (Law Enforcement Professional Standards Information System) Program Update. She informed the

Committee that 1,850 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.

32. Agenda Item 20 – The members were reminded that the next scheduled LEPS Subcommittee meeting is scheduled for December 12, 2013, with no meeting in November due to the holiday season.

There being no further agenda items set for discussion a motion was made by Ms. Singleton, seconded, Lieutenant Malcomb, to adjourn meeting. Meeting adjourned at 11:31 a.m.