

**LAW ENFORCEMENT PROFESSIONAL STANDARDS SUBCOMMITTEE
Charleston Civic Center
Charleston, West Virginia**

August 28, 2014

MEMBERS PRESENT: Mayor Robert Newell
Colonel Jerry Jenkins
Sheriff Tom McComas
First Lieutenant James Lee
Retired Chief Steve Stephens
Retired Lieutenant Steve Walker

MEMBERS REPRESENTED: Colonel Jay Smithers by
Captain David Lee
Chief Ray Fridley by
Chief Brad Rinehart
Retired Lieutenant Terry Miller
Retired Corporal Dave Gentry
Ms. Patti Hamilton by
Mr. Jack McClung
Ms. Marykaye Jacquet by
Retired Sergeant J. L. Johnson

STAFF: Director Rick Staton
Deputy Director Jeff Estep
Retired Captain Chuck Sadler
Ms. Kimberly Mason
Ms. Judy Strickland

The August 28, 2014 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee was called to order at 9:04 a.m. by Chair Retired Chief Stephens. There were eleven (11) members either present or represented at the start of the meeting. During the meeting Retired Captain Sadler introduced Rick Staton as the new Director of the Division of Justice and Community Services. This meeting was held in Room 204 of the Charleston Civic Center in conjunction with the scheduled meeting of the full Governor's Committee on Crime, Delinquency and Corrections that afternoon at the Civic Center.

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

1. Agenda Item 1 – Consideration of the minutes of the July 31, 2014 LEPS Subcommittee meeting. Motion made, Retired Lieutenant Walker, seconded, Sheriff McComas to approve the minutes as presented. The motion was approved unanimously with no discussion.
2. Agenda Item 2 –LEPS Fund Account financial update was provided by Retired Captain Sadler. He noted that the balance as reflected on the report, page 1 of the agenda packet as of August 14, 2014, was \$520,070.06. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to accept report as given. The motion was approved unanimously with no discussion.
3. Agenda Item 3 – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, for the approval of the applications for individuals to be approved as certified law enforcement instructors. The motion was approved unanimously with no discussion.
4. Agenda Item 4 –Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, the approval of applications for additional areas of expertise to be approved for previously certified law enforcement instructors. The motion was approved unanimously with no discussion.
5. Agenda Item 5A, 5B, and 5C – Motion made, Sheriff McComas, seconded, Mayor Newell, that based upon representation of Retired Captain Sadler that all of the classes submitted for consideration as Annual, Supervisory, and Personal In-Service Training met the criteria for approval, that they be approved for in-service credit. The motion was approved unanimously with no discussion.
6. Agenda Item 5D – Motion made, Sheriff McComas, seconded, Captain Lee that the Basic Instructor Development Class submitted by RESA 8, having been reviewed and recommended for approval by Sergeant Portaro, be so approved for in-service and that officers completing this training would be

considered to have completed an instructor development course when they sought certification as an instructor in this state. The motion was approved unanimously with no discussion.

7. Agenda Item 5E – Motion made Sheriff McComas, seconded, Retired Lieutenant Walker that the Law Enforcement Handgun Instructor Class submitted for approval by the McDowell County Sheriff's Office be approved for in-service credit and that the deputies completing this training be considered to have met the legislative rule requirement to serve as a range officer for that agency. The motion was approved unanimously with no discussion.
8. Agenda Item 6 – Order to Stop Working. There were none. No action required
9. At the indication of the Chair that there were personnel related matters to be discussed under Agenda Items 7, 8A, 8B, 9, 10, 11A, 11B-1, 11B-2 and 13 motion made by Sheriff McComas, seconded, Retired Sergeant Johnson, and approved unanimously without discussion for the Subcommittee to go into executive session at 9:14 a.m. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, and approved unanimously without discussion for the Subcommittee to come out of executive session at 11:45 a.m, no action having been taken during the executive session on any of the items discussed. The Chair then moved to address, as necessary, agenda item 7 on.
10. Agenda Item 7 – Criminal Conviction Records as to Applicants for Entry Level Training Program. The offense reported on this officer does not need to be reviewed by the Subcommittee. Presented for informational purposes only. No action required.
11. Agenda Item 8A – Update/Review concerning a former officer approved to attend basic training as a private citizen. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the former officer in question be considered to have been made anew in the certification process and that as such when he would be hired by a West Virginia law enforcement agency that he be allowed to attend the entry level training program as a sworn officer under that agency's sponsorship. The motion was approved unanimously with no discussion.
12. Agenda Item 8B – Request to be approved to attend entry level training program as a sworn officer, the Chief in question having previously not attended the required training at the direction of the Mayor. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that this Chief be approved to attend the entry level training program as a sworn officer as he

complied with all requirements to have attended before, the fact that he had not was due to the action of the town administration where he was, and continued to be, employed.. The motion was approved unanimously with no further discussion.

13. Agenda Item 9 – Update on prior action by the Subcommittee members relating to officer's formal appeal, hearing and review. Presented for informational purposes, no action required.

14. The Subcommittee members took a break beginning at 11:08 a.m. and ending at 11:16 a.m.

15. Agenda Item 10 – Review/Action concerning officers short training requirements for 2014 Training Year. For all votes concerning motions made relating to this agenda item as follows Sheriff McComas abstained from the vote as a member of this agency was involved in the discussion on this item. The members had been presented with information addressing groups of officers who either had completed, prior to this meeting, in-service training, firearms qualifications or both since the end of the 2014 Training Year on 30 Jun 14 or whom still had in-service training, qualifications to complete. The following motions were made as indicated and passed with no dissenting votes and Sheriff McComas abstaining as previously noted:

- a. Motion made, Mayor Newell, seconded by Retired Sergeant Johnson, that for the officers in Groups 1 and 2 who had in-service and/or qualifications to complete that they be given until September 30, 2014 to complete and if not done so at that time that a stop work order be issued.
- b. Group 3 – No action required as officers had qualified since the end of the training year prior to this meeting.
- c. Motion made, Retired Lieutenant Walker, seconded by Mayor Newell, that for the officers in Groups 3 and 4 who had qualifications to complete that they be given until September 30, 2014 to complete and if not done so at that time that a stop work order be issued.
- d. Motion made, Retired Lieutenant Walker, seconded by Retired Sergeant Johnson, that for the officers in Group 5 have their certification as a law enforcement officer in this state suspended as they had worked during the 2014 Training Year and had not presented a valid reason to the members as to why they did not have to qualify during the period, or since, prior to this meeting.
- e. Motion made, Mayor Newell, seconded by Retired Sergeant Johnson, that for the officer in Group 6 that a determination be made if he had completed the required second qualification for

the period as had other other agency members who had also been short and if not that he be given until September 30, 2014 to complete and if not done so at that time that a stop work order be issued.

- f. Motion made, Mayor Newell, seconded by Retired Sergeant Johnson, that for the officers in Group 7 who had qualifications to complete that they be given until September 30, 2014 to complete and if not done so at that time that a stop work order be issued.
- g. Group 8 – No action required as officers had completed required in-service since the end of the training year prior to this meeting.
- h. Motion made, Retired Corporal Gentry, seconded by Mr McClung, that for the officers in Group 9 who had in-service training to complete that they be given until September 30, 2014 to complete and if not done so at that time that a stop work order be issued.
- i. Motion made, Mayor Newell, seconded by Captain Lee, that for the officers in Group 10 who had in-service training to complete that they be given until September 30, 2014 to complete and if not done so at that time that a stop work order be issued.

16. Agenda Item 11.A. – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to approve the full reactivation of the law enforcement officers listed in the agenda. The motion was approved unanimously with no discussion to allow full reactivation for the eight officers listed.

17. Agenda Item 11.B.(1) – Officer #1 appeared before the Subcommittee for a certification reactivation review required as a result of the circumstances of his departure from his last West Virginia law enforcement employer and his seeking to be employed at another law enforcement agency in a sworn position. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson to approve the reactivation of the law enforcement certification for this officer. The motion was approved unanimously with no further discussion

18. Agenda Item 11B2 – Officer #2 appeared before the Subcommittee for a certification reactivation review required as a result of not completing required in-service training and firearms qualification(s) during the period that he was in the certification retention program. Motion made, Sheriff McComas, seconded, Captain Lee, that upon the completion of the following actions that his certification as a law enforcement officer in this state be reactivated, that he complete eight (8) hours of in-service training not completed as required before and that he complete his day and low light qualifications with his duty

weapon by September 30, 2014. The motion was approved unanimously with no further discussion.

19. Agency 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.
20. Agenda Item 13 – Equivalent certification program reviews as to decisions made. This officer has been recommended to continue in the equivalent certification process by attending the three (3) week training scheduled for September 2014 in order to gain certification as a West Virginia law enforcement officer. Presented for informational purposes. No action required.
21. Agenda Item 14 – Review of officer's ability to enter and complete the entry level training program. There were none, no action required.
22. Agenda Item 15 – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, for the approval of the graduates of the 158th Basic Class as certified law enforcement officers. The motion was approved unanimously with no discussion.
23. Agenda Item 16 – Retired Captain Sadler informed the Subcommittee that based on the information in the publication he received from The Cooper Institute he is requesting that the members approve the PAT standards changes provided in the agenda mailing. The changes would bring the PAT standards in line with the requirement set forth in 149-2, applicable section. Motion made, Retired Lieutenant Walker, seconded, Sheriff McComas, to set the PAT performance standards at the 40th percentile levels as reflected in the most current Cooper Institute study, these performance levels to be in effect for the PAT to be administered for the 161st Basic Class which begins January 15, 2015 in order to allow time for the information on the performance changes to be made known to law enforcement agencies. The motion was approved unanimously with no further discussion.
24. Agenda Item 17 – Retired Captain Sadler provided an update on the Legislative Interim Study referencing the LEPS Fund. No action has been taken as yet by the applicable legislative interim committee, projected to being during the October 2014 interim meetings.
25. Agenda Item 18 – Motion made, Sheriff McComas, seconded, Captain Lee to approve the 2014 LEPS Subcommittee Annual Training Report. The motion was approved unanimously with no discussion.

26. Agenda Item 19 – Funding request for the 160th Basic Class was presented to the Subcommittee for approval. Motion made, Sheriff McComas, seconded, Mayor Newell that the request for funds to conduct the 160th Basic Class be approved from the LEPS Fund. The motion was approved unanimously with no discussion.
27. Agenda Item 20 – Retired Captain Sadler gave an update on the Legislative Rule Review actions, CSR 149-1 and 149-2 to be presented during the 2015 Legislative Session. Due to the required public comment notice not being properly filed with the Secretary of State's (SOS) Office prior to June 30, 2014 the rules have been refiled for a thirty (30) day public comment period that will run through September 5, 2014. At that time the applicable paperwork will be filed with the SOS Administrative Law section.
28. Agenda Item 21 – Retired Captain Sadler provided the Subcommittee with IADLEST national training survey results for entry level and in-service training for law enforcement officers. Provided for informational purposes.
29. Agenda Item 22 – Correspondence dated August 8, 2014 from the West Virginia Innocence Project sent Retired Captain Sadler and certain members of the Subcommittee. Provided to make the members aware of the contents as to prior interactions of the Innocence Project with the Subcommittee. Request made by Retired Lieutenant Walker for the respective associations/organizations representatives comprising the LEPS Subcommittee to consider meeting with representatives of the Innocence Project to discuss the legislative emphasis and direction of the project members for the 2015 session. Consensus agreement by those present that this should occur.
30. Agenda Item 23 – A Guide to West Virginia Open Governmental Proceedings Act was provided the Subcommittee by Chair, Retired Chief Stephens. Presented for informational purposes, no action required.
31. Agenda Item 24 – Reminder to the members to remain for the full Governor's Committee meeting and that the next scheduled LEPS Subcommittee meeting will be held on Thursday, September 25, 2014 at the WVSP Training Academy PDC, at 9:00 a.m.

There being no further agenda items set for discussion a motion was made by Sheriff McComas, seconded, Captain Lee to adjourn this meeting. Meeting adjourned at 12:15 p.m.