

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

**January 30, 2014**

**MEMBERS PRESENT:**

Sheriff Tom McComas  
Mayor Bob Newell  
Retired Chief Steve Stephens  
Retired Lieutenant Dave Malcomb  
Retired Lieutenant Steve Walker  
Retired Lieutenant Terry Miller

**MEMBERS REPRESENTED:**

Colonel Jay Smithers by  
Captain David Lee  
Sergeant Gary Martin  
Colonel David Murphy by  
Lieutenant Tim Coleman  
Ms. Patti Hamilton by  
Mr. Jack McClung  
Retired Sergeant J. L. Johnson for the  
WV Human Rights Commission

**MEMBERS ABSENT:**

Public-at-Large position not filled at this time

**STAFF:**

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

The January 30, 2014 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee was called to order at 9:05 a.m. by the Chair, Retired Chief Steve Stephens. There were ten (10) members either present or represented at the start of the meeting. Ms. Boggess arrived at the meeting at 9:47 a.m., and Captain Lee arrived at 10:39 a.m. during the executive session. Sergeant Martin represented the West Virginia State Police prior to Captain Lee's arrival.

Parkersburg Mayor Bob Newell has replaced Ms. Suzan Singleton as the member representing the West Virginia Municipal League on the LEPS Subcommittee. Six (6) LEPS Subcommittee appointments have been submitted to Governor Tomblin for approval.

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. There were none, no action required.
2. Agenda Item 2 – Motion made, Retired Lieutenant Walker, seconded, Sheriff McComas, to accept the minutes of the December 31, 2013 meeting as presented. The motion was approved unanimously with no discussion.
3. Agenda Item 3 – Retired Captain Sadler informed the Subcommittee that the accountant who handles the LEPS Fund report is on leave so he did not have a LEPS Fund Statement available. He informed the Committee that the fund is in the range of \$500,000. Retired Captain Sadler also said a payment of \$50,000 has been made for the LEPSIS maintenance/software license. This is the first payment of three that is to be made within a three year period, \$150,000 having previously been obligated by the members within the fund to cover this expense.
4. Agenda Item 4 – Consideration of applications for individuals to be approved as certified law enforcement instructors. There were none, no action required.
5. Agenda Item 5 – 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.
6. Agenda Item 6A – Motion made Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for annual in-service credit. The motion was approved unanimously with no discussion.

7. Agenda Item 6B (1) – Motion made, Retired Lieutenant Terry Miller, seconded, Sheriff McComas, that the listed classes be approved for supervisory in-service training credit. The motion was approved unanimously with no discussion.
8. Agenda Item 6B (2) – Discussion concerning classes submitted by Corporal H. Teare for supervisory level in-service approval which addressed the role of supervisory level officers during felony traffic stops and other potential use of force incidents. The training does address management level concepts. The members wanted to be sure that the training was not to train instructors in the subject areas. Retired Captain Sadler assured them that they did not. 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 further discussion.
9. Agenda Item 6C – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the listed classes in the agenda packet be approved for personal in-service training credit. The motion was approved unanimously with no discussion.
10. Agenda Item 7 – Order to Stop Working. There were none, no action required.
11. At the indication of Retired Chief Stephens that there were personnel related matters to be discussed under Agenda Items 8, 9A, 9B, 10A, 10B, 11A, 11B-2, 11B-3, 11B-4, 11B-5, 11B-6, 11B-7, 11B-8, 12, and 14 a motion was made by Sheriff McComas, seconded, Retired Lieutenant Walker and approved unanimously without discussion for the Subcommittee to go into executive session at 9:14 a.m. Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker and approved unanimously without discussion for the Subcommittee to come out of executive session at 11:58 a.m.
12. Agenda Item 8 – Officer with criminal conviction appeared before the Subcommittee requesting approval to attend an entry level training program in order to secure certification. Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker that due to the short amount of time that has passed since this individual's criminal conviction, within the last 12 months, that he not be allowed to continue in the law enforcement training program at this time. No further discussion or questions. The motion was approved unanimously.
13. Agenda Item 9A – Officer #1 is a former law enforcement officer who left a basic class for personal reasons. He was seeking approval to return to work as a sworn officer and be eligible to submit an application to the Academy. This individual left the Academy training program prior to the legislative

changes which state that if an individual voluntarily resigns from basic entry level training they can be hired again as a sworn officer after two years. Retired Captain Sadler has advised the individual that his only option is to make application and attend as a private citizen. He has previously been approved to attend as a private citizen, but has not submitted paperwork to attend due to his inability to pay the private citizen tuition fee. No action required, provided for information purposes.

14. Agenda Item 9B – Officer #2 is a former law enforcement officer who has been enrolled in two basic entry level training classes. The reason he left the final class was due to personal reasons. He is seeking approval to attend the Academy now as a private citizen. Motion made, Retired Lieutenant Walker, seconded, Sheriff McComas that this individual be allowed to make application to the WVSP Training Academy as a private citizen in order to gain certification as a law enforcement officer. The motion was approved unanimously.
15. Agenda Item 10A – Officer #1 is a former law enforcement officer who voluntarily surrendered his law enforcement certification on January 3, 2014 as part of a plea to a criminal charge. Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker, to accept the surrender of this officer's certification based on his plea to the charge in the information filed and that a Position Statement be prepared concerning this action. The motion was approved unanimously.
16. Agenda Item 10B – Officer #2 as to the decision by Mr. Estep, acting on behalf of the Executive Director GCCDC, to uphold the decision by the Subcommittee members as to their denial to reactivate a Former Troopers law enforcement certification. This individual has until mid-February to appeal the matter to Circuit Court. This is presented for informational purposes only.
17. Agenda Item 11A – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to approve the full reactivation of the law enforcement officers listed in the agenda. This motion was approved unanimously, with no discussion, to allow full reactivation for the twenty officers.
18. Agenda Item 11B (1) Discussion concerning the recommendation of the DJCS/LEPS Unit personnel that all former officers who had left their last employment due to being terminated or resigning while under investigation or pending an investigation, not be allowed to work until the officer in question appeared before the Subcommittee members and is approved to have his/her law enforcement certification reactivated. It was felt that this was the best way to assure that the necessary information was secured and reviewed before the decision to reactivate or not was made by the members. The

members expressed their consensus approval that the recommendation made by the staff would be how such reviews are to be handled.

19. Agenda Item 11B (2) – Officer #1 – This law enforcement officer resigned from his previous employer while under investigation. Officer appeared before the Subcommittee to discuss the circumstances relating to this resignation. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to approve the reactivation of certification of this officer. The motion was approved unanimously.
20. Agenda Item 11B (3) – Officer #2 – This law enforcement officer appeared before the Subcommittee to discuss the circumstances relating to his termination from his previous employer. Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker, to approve the reactivation of certification of this officer. The motion was approved unanimously.
21. Agenda Item 11B (4) – Officer #3 – This law enforcement officer appeared before the Subcommittee to discuss the circumstances relating to his termination from his previous employer. Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker, to approve the reactivation of certification of this officer. The motion was approved unanimously.
22. Agenda Item 11B (5) – Officer #4 – This law enforcement officer appeared before the Subcommittee to confirm that he had left his most recent West Virginia law enforcement employer in good standing. This officer, however, is currently not employed by a law enforcement agency. Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker, to table reactivation review until this officer is hired by a law enforcement agency at which time he will be required to submit the required paperwork to the Academy. A standard reactivation review will be completed at that time, His appearance before the Subcommittee will not be required. The motion was approved unanimously.
23. Agenda Item 11B (6) – Officer #5 – This law enforcement officer appeared before the Subcommittee to discuss the circumstances relating to his termination from his previous employer. Motion, Sheriff McComas, seconded, Retired Lieutenant Walker, to allow this officer to work under a temporary reactivation of his certification while specific details of the information provided by the officer during this meeting was verified, with full reactivation to occur without further Subcommittee review if information was verified as correct. There was discussion following the motion clarifying what LEPS Unit personnel were to verify concerning this officer. A request was also made to Retired Captain Sadler to check on what actions could be taken if an officer was determined to have presented false information to the members during a meeting. There being no further discussion, Retired Chief Stephens called for a vote on the motion presented. The motion was approve unanimously.

24. Agenda Item 11B (7) – Officer #6 – This law enforcement officer appeared before the Subcommittee to discuss the circumstances relating to his termination from his employer. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to approve the reactivation of certification of this officer because a Police Civil Service Commission had ruled that the employer had clearly terminated the officer without proper grounds. The motion was approved unanimously.
25. Agenda Item 11B (8) – Officer #7 – This officer had been scheduled to discuss with the members the circumstances under which he had left his last West Virginia law enforcement employer. He was unable to attend this meeting due to being unable to change his work schedule with his current non-law enforcement employer. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to table the reactivation review concerning this former officer until he is hired by a West Virginia law enforcement agency. The motion was approved unanimously.
26. Agenda Item 12 – Determination of required training for recertification following separation of more than sixty (60) months as a West Virginia law enforcement officer. Reviewed as part of item 11B (8) Officer #7 as this is the same officer. Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker, to table this review until officer requires a review as to what training he must complete if, or when, certification is brought back into active status when he is employed by a law enforcement agency. The motion was approved unanimously.
27. Agenda Item 13 – Equivalent certification program reviews as to decisions made. There were none, no action required.
28. Agenda Item 14 – Review of officer's ability to be able to complete Academy based on medical related issues/excuses prior to attending classes. This officer has been employed for a total of two (2) years and has not attended the Academy due to medical related reasons. Motion, Sheriff McComas, seconded, Retired Sergeant Johnson, that if this officer is still employed as an officer that a Stop Work Order is to be issued that will remain in place until he is able to begin an entry level training class. The motion was approved unanimously.
29. Agenda Item 15 – Freedom of Information Act (FOIA) response presented for informational purposes only. Due to the amount and type of information requested the response had been prepared with the assistance of the Attorney General who represents the LEPS Program and DJCS. No Subcommittee action required.

30. Agenda Item 16 – Following the discussion and action during the December 12, 2013 Subcommittee meeting concerning the approval of who may teach the Basic Instructor Development Class presented at the Academy, Retired Captain Sadler received a request from one of the participants at that meeting to clarify the information used by the members in making the decision they did. He has responded in general to the inquiry and, as requested by the members during that December meeting, is obtaining information from other state level LEPS related programs on the makeup of their instructor training courses and the criteria used to approve individuals to teach such classes. Presented for informational purposes, no action required.
31. Agenda Item 17 – Discussion concerning additional revenue sources for the LEPS Fund. Senator Laird, DJCS Deputy Director Estep, Retired Captain Sadler, and a staff attorney representing Senate Judiciary Committee Chair Palumbo met with Senate Present Kessler prior to the start of 2014 legislative session to discuss the LEPS Fund level and solutions to increase its revenue sources. Matter has been introduced as a Concurrent Resolution to have a legislative study completed between 2014 and 2015 legislative sessions.
32. Agenda Item 18 – Legislative Rule 149-2. Proposed changes being considered during the 2014 legislative session have been reviewed by the House Government Organization Committee and was passed out to the House Judiciary Committee without any changes. There was discussion during the review in House Government Organization by a couple delegates concerned that the “resort area rangers” would be working for a private entity, Snowshoe. The committee counsel addressed their concern by reminding them that their concern was not part of the rule changes submitted, that who employed them had been approved in legislation passed during the 2013 legislative session.
33. Agenda Item 19 – LEPSIS (Law Enforcement Professional Standards Information System) Program Update was provided by Ms. Mason. She informed the members that there have been 2,061 officers sign up and of that number 1,963 are active employees. She noted that she had switched to a new sign up survey tool to allow individuals not in the system to gain access, but had subsequently switched back to the original survey tool when the new one was determined to not be compatible with the overall system.
34. Agenda Item 20 – Standard correspondence that was mailed to individuals who failed the PAT for the 157<sup>th</sup> Basic Class, and correspondence sent to individuals who were enrolled in the 157<sup>th</sup> Basic Class but resigned from the Academy. Presented for informational purposes.
35. Agenda Item 21 – The next scheduled LEPS Subcommittee meeting is on February 27, 2014.

There being no further agenda items set for discussion a motion was made by Sheriff McComas, seconded, Retired Sergeant Johnson to adjourn this meeting. Meeting adjourned at approximately 12:18 p.m.