

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

**July 31, 2014**

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

MEMBERS REPRESENTED: Colonel Jay Smithers by  
Sergeant Joe Portaro  
Colonel Jerry Jenkins  
Lieutenant Tim Coleman  
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: Associate Deputy Leslie Boggess  
Retired Captain Chuck Sadler  
Ms. Kimberly Mason  
Ms. Judy Strickland

The July 31, 2014 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee was called to order at 9:07 a.m. by Chair Retired Chief Stephens. There were ten (10) members either present or represented at the start of the meeting. Retired Captain Sadler introduced First Lieutenant James Lee as the representative from the West Virginia Troopers Association. Associate Deputy Leslie Boggess arrived at 9:38 a.m.; and, Retired Sergeant Johnson arrived at 10:05 a.m. Retired Captain Sadler had to leave the meeting at 10:22 a.m. due to a prior appointment at the Academy. Retired Captain Sadler returned to the meeting at 11:38 a.m.

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 April 22-23, 2014 Rules Review, the April 24, 2014 and June 26, 2014 LEPS Subcommittee meeting. Motion made, Sheriff McComas, seconded Lieutenant Coleman, 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 was \$423,687.44. Motion made, Sheriff McComas, seconded, Lieutenant Coleman, to accept report as given. The motion was approved unanimously with no discussion.
3. Agenda Item 3 – Motion made, Sheriff McComas, seconded, Lieutenant Coleman, 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, Lieutenant Coleman, 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 – Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker, that the classes listed in the agenda packet be approved for annual in-service credit. The motion was approved unanimously with no discussion.
6. Agenda Item 5B – Motion made, Sheriff McComas, seconded, Chief Rinehart, that the classes listed in the agenda packet be approved for supervisory in-service training credit. The motion was approved unanimously with no discussion.

7. Agenda Item 5C – Motion made, Sheriff McComas, seconded Mayor Newell that the classes listed in the agenda packet for personal in-service training be approved. The motion was approved unanimously with no discussion.
8. Agenda Item 6 – Order to Stop Working. There were none, no action required
9. Agenda Item 7 – Criminal Conviction Records as to Applicants for Entry Level Training Program. There were none, no action required.
10. Agenda Item 8 – Criminal Conviction Records as to Applicants for Entry Level Training Program. There were none, no action required.
11. At the indication of the Chair that there were personnel related matters to be discussed under Agenda Items 9A, 9B, 9C, 10A, 10B-1, and 10B-2 a motion was made by Retired Lieutenant Walker, seconded, Chief Rinehart, and approved unanimously without discussion for the Subcommittee to go into executive session at 9:13 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 12:04 p.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 9 on.
12. Agenda Item 9A – Notice of Subcommittee action during the June 26, 2014 LEPS meeting relating to the member's actions and decision concerning the law enforcement certification of the involved officer. This correspondence was presented for informational purposes, no action required.
13. Agenda Item 9B – Notice of formal appeal of LEPS Subcommittee decision referencing the officer in Agenda Item 9A. This was presented for informational purposes, no action required.
14. Agenda Item 9C – Revised Draft Position Statement giving the formal decision and position with respect to the revocation action concerning the law enforcement certification of the officer addressed in Agenda Items 9A and 9B. Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker, to accept Position Statement as presented. The motion was approved unanimously with no discussion.
15. Agenda Item 10A – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson to approve the full reactivation of the law enforcement officers listed in the agenda including the three officers that are scheduled for the 3-week recertification. The motion was approved unanimously with no discussion to allow full reactivation for the nineteen officers listed.

Agenda Item 10B-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 table this item until additional information could be submitted and reviewed by the Subcommittee to determine the full circumstances concerning this officer's departure and the status of reviews as to the employer's action by the local police civil service commission and circuit court where the action was under review as well. The motion was approved unanimously with no further discussion.

16. Subcommittee members took a break, beginning at 10:45 a.m., ending at 10:57 a.m.
17. The Chair, Retired Chief Stephens, provided the Subcommittee members with a copy of "A Guide to the West Virginia Open Governmental Proceedings Act" (WV Code §§ 6-9A-1 through 12) – also known as the "Sunshine Law" or "Open Meetings Law" which addresses questions about open meetings for informational purposes. This was brought to the attention of the Subcommittee due to a request by an Officer and Chief of Police one (1) day before the scheduled meeting requesting that they be set to the agenda and be allowed to appear before the Subcommittee after the agenda for the July 31<sup>st</sup> meeting had already been set. The Officer and the Chief of Police were present; however, they were not allowed to appear before the Subcommittee because the agenda had already been set. The reactivation review involving this Officer will be set to the agenda of the August 28, 2014 meeting.

Agenda Item 10B-2 – Officer #2 appeared before the Subcommittee for a certification reactivation review Motion made, Sheriff McComas, seconded, Chief Rinehart, that after reviewing the information presented by the officer, that there is there is nothing that precludes his certification from being reactivated and that as such his certification as a West Virginia law enforcement officer would be reactivated. Officer will need 16 hours of in-service training and qualify with his weapon. Retired Captain Sadler will instruct this officer as to the steps he needs to take to complete this process. The motion was approved unanimously with no further discussion.

18. Agency Item 11 – 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.
19. Agenda Item 12 – Equivalent certification program reviews as to decisions made. There were none, no action required.

20. Agenda Item 13 – Review of officer’s ability to enter and complete the entry level training program. There were none, no action required.

Agenda Item 14 – Retired Captain presented the proposed changes to the LEPS Subcommittee By-Laws. Motion made, Mayor Newell, seconded, Sheriff McComas, to accept the proposed changes to the LEPS Subcommittee By-Laws and make those changes effective July 31, 2014. The motion was approved unanimously with no further discussion.

21. Agenda Item 15 – Retired Captain Sadler informed the Subcommittee of possible changes in the Physical Ability Test (PAT) test/score levels. He is securing the results of studies by The Coopers Institute in Dallas, Texas. As set by legislative rule the standards for tests comprising the PAT are based on these study results. He expects to have the necessary information for presentation and action by the members during their August meeting. This was presented for informational purposes.

22. Agenda Item 16 – Retired Captain Sadler informed the Subcommittee that he has had contact with Senate Finance Committee Staff Attorney, Ms. Melissa Lilly, as to the legislative interim study on the LEPS Fund prior to the 2015 Legislative Session. She had told him that their study of the LEPS Fund study would not start until the September interim meetings due to their schedule.

23. Agenda Item 17 – Retired Captain Sadler informed the Subcommittee that there have been calls referred to DJCS/LEPS Unit from other agencies concerning allegations of police misconduct within various departments throughout the State. Retired Captain Sadler said he is making those callers aware of the fact that DJCS/LEPS Unit has no oversight/authority to investigate allegations of misconduct, however, he has been informing those individuals of other courses of action that they may take to resolve the concerns they have with these allegations. Presented for informational purposes, no action required.

24. Agenda Item 18 – Update on Legislative Rule Review actions, CSR 149-1 and 149-2, 2015 Legislative Session. There have been no public comments received. Next filing with Secretary of State’s Office will be July 31, 2014. Provided for informational purposes, no action required as there had been no comments.

25. Agenda Item 19 – Reminder that the meeting of the Governor’s Committee on Crime, Delinquency and Correction will be held at the Charleston Civic Center on August 28, 2014. The LEPS Subcommittee meeting will be held from 9 a.m. until 12 noon; and, the Full Governor’s Committee meeting will begin at

1:00 p.m. Members reminded to ***please be aware that attendance is needed at both meetings to allow for a quorum.***

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 12:10 p.m.