

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

**June 26, 2014**

MEMBERS PRESENT: Mayor Robert Newell  
Sheriff Tom McComas  
Retired Chief Steve Stephens

MEMBERS REPRESENTED: Colonel Jay Smithers by  
Captain David Lee  
Colonel David Murphy by  
Lieutenant Tim Coleman  
Chief Ray Fridley by  
Chief Brad Rinehart  
First Lieutenant James Lee by  
Retired Lieutenant David Malcomb  
Retired Lieutenant Steve Walker by  
Retired Corporal Dave Gentry  
Ms. Patti Hamilton by  
Mr. Jack McClung

ABSENT: Ms Marykaye Jacquet  
Retired Lieutenant Terry Miller

STAFF: Retired Captain Chuck Sadler  
Ms. Kimberly Mason  
Ms. Judy Strickland

GUESTS: Deputy Attorney General Marty Wright

The June 26, 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 eight (8) members either present or represented at the start of the meeting. Mayor Newell came into the meeting at 9:13 a.m. during the discussion of Agenda item 5.D. Retired Corporal Gentry left the meeting at 11:16 a.m. due to prior commitment after the members came out of executive session at 11:15 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 May 29, 2014 Subcommittee meeting and June 11, 2014 LEPS telephone conference call. Motion made, Sheriff McComas, seconded Chief Rinehart 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 which reflects monies obligated for all Basic Classes through the 159<sup>th</sup> that started June 23, 2014 and the salary grant for the Academy support staff positions for FY15. Motion made, Sheriff McComas, seconded, Chief Rinehart to accept report as given.
3. Agenda Item 3 – Motion made, Sheriff McComas, seconded, Retired Corporal Gentry, 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, Chief Rinehart, 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, Chief Rinehart, 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, Retired Corporal Gentry 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 Chief Rinehart 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 5D – Discussion concerning this tabled agenda item from the May 29, 2014 meeting, Sergeant Goodrich, Bridgeport Police Department, one of the two instructors for this proposed course was present, The information requested by the members during the May meeting had been provided and made part of the agenda mailing packet. Sergeant Goodrich answered the members' questions concerning that information and reviewed how the training had been developed and would be presented. Motion made, Sheriff McComas, seconded, Retired Lieutenant Malcomb that the Train the Trainer (Instructor) AR-15/M-4 Patrol Rifle Course they had submitted be approved. The motion was approved unanimously with no further discussion.
9. Agenda Item 6 – Retired Captain Sadler noted that this item addressed some grammatical and spelling corrections to the document approved during the May 2014 meeting which overviewed the process involved when an officer appeared before the members as to a review of status. Consensus approval by the members present as to the changes made and for the form to start being provided to such officers.
10. Agenda Item 7A – Retired Captain Sadler advised the members that the “order” in question had been provided for informational purposes. The former officer involved had notified the LEPS Unit that he had moved from a sworn officer position to a security officer position. The stop work order had been provided to the agency and the officer as notice that he could take no police related actions. The individual could be employed again as an officer should he elect to at agency in question or another as he had met all requirements. No action required by members, presented for informational purposes.
11. At the indication of the Chair that there was a personnel related matter to be discussed under Agenda Item 7B a motion was made by Sheriff McComas, seconded Chief Rinehart, and approved unanimously without discussion for the Subcommittee to go into executive session at 9:34 a.m. Motion made, Sheriff McComas, seconded, Captain Lee and approved unanimously without discussion for the Subcommittee to come out of executive session at 9:56 a.m.
12. Retired Chief Stevens, Chair, asked if there was any motion to be made concerning the officer involved in Agenda Items 7B and 10A, which were the same individual. Motion made Sheriff McComas, seconded Mayor Newell, to accept and discuss the additional information submitted and to be submitted during this meeting concerning this officer, The motion was approved unanimously.
13. At the indication of the Chair that there were personnel related matters to be discussed under Agenda Items 7B, 10A-1, 10A-2, 10B, 10C, 11A, 11B, 12,

15, and 16 a motion was made by Sheriff McComas, seconded, Captain Lee and approved unanimously without discussion for the Subcommittee to go into executive session at 9:58 a.m. Motion made, Sheriff McComas, seconded, Chief Rinehart and approved unanimously without discussion for the Subcommittee to come out of executive session at 11:17 a.m.

The members took a break from 10:00 a.m. and returned at 10:05 a.m. during this executive session.

14. Agenda item 7B – Order to Stop Working – The officer involved is the same matter set under Agenda Item 10A on today's Agenda and Agenda Item 11 from the May 29, 2014 LEPS. The Chair indicated that he would ask for any action concerning this officer under Agenda Item 10.
15. Agenda Item 8 – Criminal Conviction Records as to Applicants for Entry Level Training Program. There were none, no action required.
16. Agenda Item 9 – Request to attend the Entry Level Training Program as a Private Citizen. There were none, no action required.
17. Agenda Item 10A (1) – The Chair asked indicted that this officer had appeared before the members during the members during their May 29, 2014 meeting at which time a motion to revoke the certification of the officer had been approved by the majority of the members present. The officer, through his council, had asked for the opportunity to present additional information to the members during this meeting. That request was approved. The additional information had been provided and on a motion approved by the members present at this meeting following their executive session which ended at 9:56 a.m. the written information submitted to the to the members as part of their agenda packet, along with additional written information provided and a verbal presentation presented during this second executive session was considered by the members present. At this point of the meeting, the members having come out of executive session at 11:17 a.m. as previously noted in these minutes the Chair asked if there was any motion to be made concerning the additional information that they had received. Hearing none the Chair advised that the decision of the members during the May 29, 2014 meeting concerning this officer would remain as approved during that preceding meeting.
18. Agenda Item 10A-2 – The Chair advised the members that the individual that this draft position addressed was the same officer involved in Agenda Items 7 B and 10A (1) for the meeting today and from Agenda Item 11 from the June 29, 2014 meeting. Motion made, Sheriff McComas, seconded, Mayor Newell, to table consideration of the final version of this position statement until the statement was amended to reflect the actions involving this individual during

the meeting today. There were no questions concerning the motion made. The motion was approved.

19. Agenda Item 10B – Officer #2 was invited to appear before the Subcommittee as a result of a guilty plea he entered on April 28, 2014 in circuit court to charges that had been filed against him. Motion made, Mayor Newell, seconded, Captain Lee, that based on the fact that this individual did not appear before the Subcommittee and that as it is a public record that he had entered a guilty plea to a charge of Providing False Information to a Member of the West Virginia State Police and DUI that his law enforcement certification be revoked. The motion was approved unanimously with no discussion.
20. Agenda Item 10C – Officer #3 was invited to appear before the Subcommittee for review of his certification as a law enforcement officer due to a no contest plea that he had had entered to a charge of assault. The involved officer had appeared and spoke with the members during the executive session. The Chair asked if there was a motion to be made concerning this officer. There was no motion made. The Chair stated that his certification as a West Virginia law enforcement officer would remain in an active state. No action to be taken.
21. Agenda Item 11A – Motion made, Sheriff McComas, seconded, Mayor Newell, 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 eighteen officers.
22. Agenda Item 11B – Review of reactivation requests where officer left prior agency with standing in question. There were none, no action required.
23. Agency Item 12 – Determination of required training for recertification following separation of more than sixty (60) months as a West Virginia law enforcement officer. Motion made, Sheriff McComas, seconded, Mayor Newell, to allow this officer to attend the three week recertification class. The motion was approved unanimously.
24. Agenda Item 13 – Equivalent certification program reviews as to decisions made. There were none, no action required.
25. Agenda Item 14 – Review of officer's ability to enter and complete the entry level training program. There were none, no action required.
26. Agenda Item 15 – Discussion by Subcommittee referencing tuition refund to this individual who began the B159 as a private citizen, paid the \$5,000 tuition, and resigned the second day of training. Discussion followed by the

members as to the policy previously put in place by them as to the payment of tuition in two increments, \$1,500 on entry in to program and balance of \$3,500 at the end of the third week by such private citizens. Motion made, Mayor Newell, seconded, Chief Rinehart that this individual be refunded \$3,500 of the tuition payment, the \$1,500 being retained within the LEPS Fund to cover the administrated related costs of reviewing and processing his attendance in the program. The motion was approved unanimously without any further discussion.

27. Agenda Item 16 – Presented for informational purposes, response from Retired Captain Sadler to a formal complaint against an officer referred to this program. Criminal charges have not been filed so there is no oversight or authority of the Subcommittee concerning alleged action of officer in question.

28. Agenda Item 17 – Legislative Interim Study of the LEPS Fund, as approved during the 2014 legislative session, has been assigned to the Joint Finance Committee. Counsel for the Committee on the Judiciary, WV State Senate, has recommended that the Subcommittee obtain information on when the Committee will begin to study the topic of LEPS funding in order to set up presenters to focus on the study. Retired Captain Sadler will follow up on this.

29. Agenda Item 18 – Legislative Rule Review Update 2015 Legislative Session. The Governor's Office has reviewed and approved 149CSR1 Rules of Procedure for Contested Case Hearings with grammatical and citation related corrections. Retired Captain Sadler informed the Subcommittee that the corrections have been made and that Deputy Attorney General Wright and he are working with the Secretary of State's Office to clarify on how 149.1 will be filed and reviewed. There is a question as to what type of rule this is and whether it requires legislative review or only applicable notice of changes filed. 149-1 and 149-2 will published for public comment period following this meeting which will allow sufficient period for such comments. Review and action on any comments will be made during the July 31, 2014 meeting and the rule will then be filed again with the Secretary of State's Office in line with required timetable for such filings proceeding the 2015 legislative session.

30. Agenda Item 19 – Discussion by the Subcommittee with reference to LEOSA and the Federal Carry Legislation recommendations concerning continued implementation of firearms qualification for retirees and out of state retirees residing in West Virginia. The Academy staff is working on a qualification schedule at selected locations and dates around the state that will help officers/retirees who are not qualifying at specific agencies to have the opportunity to qualify to be in compliance with the law requirements. Presented for informational purposes, no action required.

31. Agenda Item 20 – the next scheduled meeting of the LEPS Subcommittee will be July 31, 2014 at the PDC.

**32.** Agenda Item 21 - 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. ***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 Captain Lee, seconded, Retired Lieutenant Malcomb to adjourn this meeting. Meeting adjourned at approximately 11:42 a.m.