

**LAW ENFORCEMENT PROFESSIONAL STANDARDS SUBCOMMITTEE
LEGISLATIVE RULES REVIEW 149-2
Board Conference Room
Stonewall Resort Conference Center
Roanoke, West Virginia**

April 28-29, 2015

MEMBERS PRESENT: Colonel Jerry Jenkins
Sheriff Tom McComas
Retired Chief Steve Stephens
First Lieutenant James Lee
Ms. Patti Hamilton

MEMBERS REPRESENTED: Colonel Jay Smithers by
Captain David Lee
Chief Ray Fridley by
Chief Brad Rinehart
Retired Lieutenant Walker by
Retired Corporal David Gentry

MEMBERS ABSENT: Mayor Robert Newell
Retired Lieutenant Terry Miller
Ms. Marykaye Jacquet

STAFF: Mr. Rick Staton
Retired Captain Chuck Sadler
Ms. Kimberly Mason

GUESTS: Secretary Joe Thornton
MSP Christy Morris
Ms. Celeste Webb-Barber

The April 28-29, 2015 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee was called to order at 1:05 p.m. on Tuesday, April 28, 2014 by the Chair, Retired Chief Stephens. There were six (6) members either present or represented at the start of the meeting, which constituted a quorum of the Subcommittee membership. MSP Hamilton and Retired Corporal Gentry joined the members during the meeting discussions on the 29th of April.

The purpose of this publicly set meeting was to discuss proposed changes to Legislative Rule 149-2 and other matters pertaining to the certification of law enforcement officers within West Virginia. The following items were discussed in reference to the agenda that had been set and distributed:

1. Agenda Item 1 – Retired Captain Sadler presented a welcome to the members and an overview of the items to be discussed during the meeting.
2. Agenda Item 2 – Statutory changes approved during the 2015 legislative session to the structure, make-up and purpose of the Governor’s Committee on Crime, Delinquency and Corrections were discussed by Secretary Thornton, Mr. Staton and Retired Captain Sadler.
3. Agenda Item 3 – Statutory changes approved during the 2015 legislative session addressing the LEPS Subcommittee and program were discussed by Mr. Staton and Retired Captain Sadler. .
4. Agenda Item 4 – Retired Chief Stephens and Retired Captain Sadler led a discussion concerning the LEPS Fund. A review of previous actions and discussions as to the fund balance and the results of the legislative study addressing the fund during the 2014-2015 legislative sessions were presented along with a discussion of the projected balance of the fund and ways to increase the fund balance.
5. Agenda Item 5 – Mr. Staton and Retired Captain Sadler discussed overall goals and long range planning of the LEPS Subcommittee and program.
6. Agenda Item 6 – Retired Captain Sadler reviewed the Subcommittee By-Laws with the members to determine if any changes needed to be made to allow them to be consistent in line with statutory and other changes that had recently occurred concerning the Subcommittee. Changes proposed will be presented to the members for their formal review and approval at an upcoming meeting.
7. With the consensus approval of the members present the Subcommittee took a break in the meeting at 4:15 pm to resume the following morning. The members reconvened the meeting at 9:10 am on the 29th of April.

8. Agenda Item 7 – MSP Mason gave a presentation of LEPSIS using her access to the online secure portal to demonstrate its capabilities and functions.
9. Agenda Item 8 – Retired Captain Sadler led a discussion through the balance of the day as to a review of legislative rule 149-2 and any changes that the members wished to have considered during the 2016 session of the legislature. The following sections of the rule were addressed to consider for applicable changes (all references being to 149-2-(section listed)):
 - a. 2.2: Removal of section addressing administrative deputy with Natural Resources Police and Hatfield McCoy Trail rangers Chief due to not being applicable any more.
 - b. 2.9: Replacing Governor’s Committee on Crime, Delinquency and Correction with Subcommittee to refer to entity dealing with officer certification.
 - c. 2.12: Removal of wording addressing Hatfield McCoy Trail Rangers due to that agency no longer being a law enforcement agency.
 - d. 2.23: Adding wording to clarify that airport police are certified officers and removal of Trail Rangers reference.
 - e. 5.1.a.3: Increasing amount of experience an individual must have to be approved as a law enforcement instructor
 - f. 5.4a: To clarify recognition of other POST certified instructors as law enforcement instructors here,
 - g. 5.6 & 6c: Granting Subcommittee authority to suspend the certification of an instructor
 - h. 5.8: Clarifying ability of Subcommittee to set standards for what a suspended or revoked instructor must do to regain instructor certification.
 - i. 6.2: Clarifying what the minimum passing average score is for the entry level training classes.
 - j. 6.4: Clarifying reentry process for an individual who has left a prior entry level training class.
 - k. 6.5.b: Clarifying where an appeal of a Academy Director decision is to be made.
 - l. 6.7.a: Clarifying that it is the Subcommittee who covers costs of entry level training program.
 - m. 7.3: Clarifying that it is the Subcommittee who makes changes to core curriculum
 - n. 8.2.a: Clarifying that it is the Subcommittee who certifies officers.
 - o. 8.2.a.1: Adding language to set a date of 1 Jan 17 where all medical exams will have to be completed by medical providers approved by the Subcommittee.

- p. 8.3; Spelling error in prior rule version changed
- q. 8.4: Clarifying ability of applicable medical provider, i.e. a Physician's Assistant, to complete required medical exam
- r. 8.5: Spelling error in prior rule version changed.
- s. 10: Added wording to reflect firearms qualifications to reflect what section covers
- t. 10.1: Clarifying that it is the Subcommittee who sets requirements
- u. 10.2.a.3: Adding wording to allow the Subcommittee to be able to set a specific course of required firearms qualifications.
- v. 11.2: Added wording to clarify that firearms qualifications were applicable to supervisors also.
- w. 13.2: Removed historical reference no longer needed in rule
- x. 13.4: Added wording to clarify who is responsible for reviewing certification of officers.
- y. 15.7: Removed historical reference no longer needed in rule
- z. 18.1: Changed wording to clarify subpoena powers of the subcommittee
- aa.20.1: Added wording to clarify that a scholastic failure from the entry level training program is not an item that may be appealed to the Subcommittee
- bb.21: New section added to address ability of Subcommittee to set fees for certification and training of officers

There being no further agenda items set for discussion this meeting was called to a close by the consensus of the members present at 3:45 pm with a reminder from Retired Chief Stephens of the regularly scheduled monthly meeting of the Subcommittee set for the following morning at 9 am in this same meeting location.

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Board Conference Room
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Roanoke, West Virginia**

April 30, 2015

MEMBERS PRESENT: Colonel Jerry Jenkins
Sheriff Tom McComas
Retired Chief Steve Stephens
First Lieutenant James Lee
Ms. Patti Hamilton

MEMBERS REPRESENTED: Colonel Jay Smithers by
Captain David Lee
Chief Ray Fridley by
Chief Brad Rinehart
Retired Lieutenant Walker by
Retired Corporal David Gentry

MEMBERS ABSENT: Mayor Robert Newell
Retired Lieutenant Terry Miller
Ms. Marykaye Jacquet

STAFF: Mr. Rick Staton
Retired Captain Chuck Sadler
Ms. Kimberly Mason

GUESTS: Ms. Celeste Webb-Barber

The April 30, 2015 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee was called to order at 9:00 a.m. by the Chair, Retired Chief Stephens. There were eight (8) members either present or represented at the start of the meeting, which constituted a quorum of the Subcommittee membership.

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

1. Agenda Item 1 – Retired Captain Sadler advised the members that they had been mailed a copy of the minutes from the March 26, 2015 meeting of the LEPS Subcommittee for their review and consideration. There were no comments or questions concerning these minutes. Motion made, Sheriff McComas, seconded, Captain Lee, for the approval of the March 26, 2015 LEPS Subcommittee meeting minutes as provided. The motion was approved unanimously with no discussion.
2. Agenda Item 2 – Retired Captain Sadler advised the members that the LEPS Fund Account financial update, dated April 20, 2015, reflected that there was \$780,501.18 available for use within the LEPS Fund. There were no questions or comments concerning the financial report. Motion made, Sheriff McComas, seconded, Captain Lee, for the approval of the LEPS Fund Report as presented. The motion was approved unanimously with no discussion.
3. Agenda Item 3 – Retired Captain Sadler reviewed with the members that the individuals listed met the criteria to be approved as instructors in the areas listed and recommended their approval as such. No questions or comments were made concerning the listed individuals. Motion made, Sheriff McComas, seconded, Captain Lee, for the approval of the applications for individuals to be approved as certified law enforcement instructors in the subject areas listed. The motion was approved unanimously. .
4. Agenda Item 4 – Retired Captain Sadler reviewed with the members that the individuals listed were previously certified instructors and met the criteria to be approved as instructors in the additional areas listed and recommended their approval as such. No questions or comments were made concerning the listed individuals. Motion made, Sheriff McComas, seconded, Captain Lee, for 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. Retired Chief Stephens noted to the members that agenda items 5A to 5D dealt with training to be presented during the 2015 Training Year period that covered the dates of July 1, 2014 through June 30, 2015.

6. Agenda Item 5A – Retired Captain Sadler reviewed with the members that the classes listed had been reviewed and determined to meet the criteria to be approved as annual in-service classes as listed and recommended their approval as such. Question was asked about the content of the underwater crime scene training being presented by the Charleston Police Department. Retired Captain Sadler reviewed the general schedule of the training. No further questions or comments were made concerning the listed classes. Motion made, Sheriff McComas, seconded Captain Lee, 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 5B – Retired Captain Sadler reviewed with the members that the classes listed had been reviewed and determined to meet the criteria to be approved as supervisory in-service classes as listed and recommended their approval as such. No questions or comments were made concerning the listed classes. Motion made, Captain Lee, seconded, Sheriff McComas, that the classes listed in the agenda packet be approved for supervisory in-service credit. The motion was approved unanimously with no discussion.
8. Agenda Item 5C – Retired Captain Sadler reviewed with the members that the classes listed had been reviewed and determined to meet the criteria to be approved as annual or supervisory in-service classes as listed and recommended their approval as such. No questions or comments were made concerning the listed classes. Motion made Sheriff McComas, seconded, Captain Lee, that the classes listed in the agenda packet be approved for personal in-service credit and the type of in-service listed. There were no questions or comments concerning the classes. The motion was approved unanimously with no further discussion.
9. Agenda Item 5D – Retired Captain Sadler reviewed with the members that the class listed had been reviewed and determined to meet the criteria to be approved as an instructor level in-service class as listed and recommended its approval as such. No questions or comments were made concerning the listed class. Motion made, Sheriff McComas, seconded, Captain Lee, that the Basic Instructor Development Course be approved. The motion was approved unanimously with no further discussion.
10. Retired Chief Stephens noted to the members that agenda items 5E to 5H dealt with training to be presented during the 2016 Training Year period that covered the dates of July 1, 2015 through June 30, 2016.
11. Agenda Item 5E – Retired Captain Sadler reviewed with the members that the classes listed had been reviewed and determined to meet the criteria to be approved as annual in-service classes as listed and recommended their approval as such. No questions or comments were made concerning the

- listed classes. Motion made, Sheriff McComas, seconded Captain Lee, that the classes listed in the agenda packet be approved for annual in-service credit. The motion was approved unanimously with no discussion.
12. Agenda Item 5F – There were no supervisory level classes submitted for review/consideration. No action required.
 13. Agenda Item 5G – Retired Captain Sadler reviewed with the members that the classes listed had been reviewed and determined to meet the criteria to be approved as annual or supervisory in-service classes as listed and recommended their approval as such. No questions or comments were made concerning the listed classes. Motion made Sheriff McComas, seconded, Captain Lee, that the classes listed in the agenda packet be approved for personal in-service credit and the type of in-service listed. There were no questions or comments concerning the classes. The motion was approved unanimously with no further discussion.
 14. Agenda Item 5H – There were no train the trainer level classes submitted for review/consideration. No action required.
 15. At the indication of Retired Chief Stephens, that there were personnel related matters to be discussed under Agenda Items 6, 9, 10 and 14 motion made by Sheriff McComas, seconded, Captain Lee, and approved unanimously without discussion for the Subcommittee to go into executive session at 9:06 a.m. Motion made, Captain Lee, seconded, Sheriff McComas, and approved unanimously without discussion for the Subcommittee to come out of executive session at 9:45 a.m., no action having been taken during the executive session on any of the items discussed. Retired Chief Stephens then moved to address, as necessary, the agenda items that had been discussed while in executive session.
 16. Agenda Item 6 – Order to Stop Working – One item had been presented for informational purposes. No action required.
 17. Agenda Item 7 – Criminal Conviction Records as to Applicants for Entry Level Training Program. One item had been presented for informational purposes. No action required.
 18. Agenda Item 8 – Request to attend the Entry Level Training Program as a Private Citizen. There were none to be reviewed. No action required.
 19. Agenda Item 9A – Draft Position Statement concerning prior certification review by the members. Motion made, Sheriff McComas, seconded, Captain Lee, to approve the draft position statement presented as the reason why the

certification of the listed officer had been revoked.. The motion was approved unanimously with no discussion.

20. Agenda item 9B – Updates concerning two prior certification reviews completed by the members. Presented for informational purposes, no action required.
21. Agenda Item 10A – Retired Chief Stephens asked the members what action they desired to be taken on this agenda item. Motion made, Sheriff McComas, seconded, First Lieutenant Lee, to approve the full reactivation of the law enforcement certification of the eighteen (18) law enforcement officers listed in the agenda. The motion was approved unanimously with no discussion.
22. Agenda Item 10B – Retired Chief Stephens asked the members what action they desired to be taken on this agenda item. Motion made, Retired Corporal Gentry, seconded, Sheriff McComas, to approve the full reactivation of the law enforcement certification of this officer. The motion was approved unanimously with no discussion.
23. Agenda 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.
24. Agenda Item 12 – Equivalent certification program reviews as to decisions made. There were none, no action required.
25. Agenda Item 13– Review of officer’s ability to enter and complete the entry level training program. There were none, no action required.
26. Agenda Item 14 – Retired Chief Stephens asked the members what action they desired to be taken on this agenda item. Motion made, Retired Corporal Gentry, seconded, Chief Rinehart, that because the accommodations requested by this individual continued to be denied, in that as requested that that they changed the basic structure of the training classes, and that as this individual would not be able to complete the essential job tasks of an entry level law enforcement officer as set forth in the rule that a stop work order be issued immediately until a medical evaluation could be completed that would indicate that he could complete the required training components and perform the required essential job tasks. Captain Lee indicated that he would be abstaining from this vote due the Academy’s prior involvement with this matter. The motion was approved unanimously with no discussion by the other members present.

27. Agenda item 15 – Request by the West Virginia State Police for \$119,172 from the LEPS Fund for the operation of the 162nd Basic Class to run May 4, 2015 through August 21, 2015. Retired Captain Sadler advised that sufficient funds were in the LEPS Fund to approve this request and recommended its approval. Motion made, Sheriff McComas, seconded, First Lieutenant Lee, to approve the funding request for the 162nd Basic Class as submitted. The motion was approved unanimously with no discussion.
28. Agenda item 16 – Request by the West Virginia State Police for \$124,941 from the LEPS Fund for the operation of the 163rd Basic Class to run June 22, 2015 through October 9, 2015. Retired Captain Sadler advised that sufficient funds were in the LEPS Fund to approve this request and recommended its approval. Motion made, First Lieutenant Lee, seconded, Chief Rinehart, to approve the funding request for the 163rd Basic Class as submitted. The motion was approved unanimously with no discussion.
29. Agenda item 17 – Request by the West Virginia State Police for \$222,550 from the LEPS Fund for the funding of five civilian support positions at the Academy during FY16. Retired Captain Sadler advised that sufficient funds were in the LEPS Fund to approve this request and recommended its approval. Motion made, Sheriff McComas, seconded, First Lieutenant Lee, to approve the funding request for the funding of the salaries as submitted. The motion was approved unanimously with no discussion.
30. Agenda Item 18 – Discussion by the members as to changes that had been proposed by the members during the rules review held the past two days at this location as to the recommendation to establish a required course of fire for firearms qualifications. Retired Captain Sadler will be seeking information from other states as to if they have a prescribed course of fire and if so what it consists of. The information he obtains will be reviewed by a committee of the Subcommittee as steps are taken to secure approval to set such a prescribed course during the 2016 legislative session. That committee will be made up of by the below listed members:
- a. Colonel Jenkins
 - b. Sheriff McComas
 - c. Captain Lee
 - d. Retired Lieutenant Walker
31. Agenda item 20 – Retired Chief Stephens reminded the members that the next meeting of the LEPS Subcommittee is set for May 28, 2015, 9:00 a.m. at the PDC.

There being no further agenda items set for discussion a motion was made by Sheriff McComas, seconded, Chief Rinehart, to adjourn this meeting. The motion passed unanimously with no discussion. Meeting adjourned at 10:10 a.m.