

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

**January 29, 2015**

MEMBERS PRESENT: Sheriff Tom McComas  
Retired Chief Steve Stephens  
Retired Lieutenant Steve Walker

MEMBERS REPRESENTED: Colonel Jay Smithers by  
Captain David Lee  
Colonel Jerry Jenkins by  
Lieutenant Tim Coleman  
Chief Ray Fridley by  
Chief Brad Rinehart  
First Lieutenant James Lee by  
First Sergeant Aaron Nichols  
Retired Lieutenant Terry Miller  
Retired Corporal Dave Gentry  
Ms. Marykaye Jacquet by  
Retired Sergeant J. L. Johnson

MEMBERS ABSENT: Mayor Robert Newell  
Ms. Patti Hamilton

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

GUEST: Ms. Celeste Webb-Barber  
Mr. Marty Wright

The January 29, 2015 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee was called to order at 9:02 a.m. by Chair Retired Chief Stephens. There were nine (9) members either present or represented which represents a quorum of the Subcommittee membership, at the start of, and during, the meeting.

At the start of meeting Retired Captain Sadler went ahead and introduced Ms. Celeste Webb-Barber to the members. She is the new Assistant Attorney General replacing Mr. Marty Wright. Mr. Wright accepted the position of Lead Staff Attorney for the House Judiciary Committee and will no longer be representing the Subcommittee's legal interests. The Subcommittee and DJCS staff introduced themselves to Ms. Barber.

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 December 11, 2014 LEPS Subcommittee meeting. Motion made, Sheriff McComas, seconded, Sergeant Johnson to approve the minutes as presented. Retired Lieutenant Walker stated that the date indicated in Agenda Item 22 on page 7 be changed from December 11, 2014 to January 29, 2015 which would reflect the date of the next LEPS meeting. The motion was approved unanimously with no further discussion.
2. Agenda Item 2 – Retired Captain Sadler advised the members that the LEPS Fund Account financial update, dated January 16, 2015, reflected that there was \$678,119.46 available for use within the LEPS Fund. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, for the approval of the LEPS Fund Report as presented. 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. .
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 – 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.

6. Agenda Item 5B – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for supervisory in-service credit. The motion was approved unanimously with no discussion.
7. Agenda Item 5C – Motion made Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for personal in-service credit. Discussion followed. Chair Retired Chief Stephens asked whether or not there were classes for Traffic Crash Investigation and/or Traffic Crash Reconstruction Training available within West Virginia rather than officers going out of state to participate in these classes. The Subcommittee then discussed that the costs would be substantially lower if classes such as this could be held in state. Captain Lee advised that he would have his staff determine if the demand for such a class would allow for one to be presented here at the PDC. No further discussion on this item. The motion was approved unanimously with no further discussion.
8. Agenda Item 5D – Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker, that the Train the Trainer Course, Patrol Rifle/Shotgun Instructor training scheduled for April 2015 be tabled until the next meeting in order for the Subcommittee to review the lesson plan that was submitted. The motion was approved unanimously with no further discussion.
9. Agenda Item 5E – Retired Captain Sadler requested approval from the Subcommittee to begin submitting in-service training classes for the 2016 Training Year for approval in that LEPSIS allowed for the posting of such classes before the end of the training cycle. Consensus approval indicated for training classes to be listed on the next applicable meeting agenda following their receipt. As to the class listed for the 2016 Training Year under this agenda item motion made, Sheriff McComas, seconded, Captain Lee, that the classes listed in the agenda packet be approved. The motion was approved unanimously with no discussion.
10. Agenda Item 5F – 2016 Supervisory In-Service Training Courses. There were none to be reviewed. No action required.
11. Agenda Item 5G – 2016 Personal In-Service Training Courses. There were none to be reviewed. No action required.
12. Agenda Item 5H – 2016 Train the Trainer Courses. There were none to be reviewed. No action required.

At the indication of the Chair that there were personnel related matters to be discussed under Agenda Items 6, 8, 9, 10 A, 10 B (1), 10 B (2), 10 B (3), 10 B

- (4), 11, 12, and 14, motion made by Sheriff McComas, seconded, Retired Sergeant Johnson, and approved unanimously without discussion for the Subcommittee to go into executive session at 9:21 a.m. Break at 10:18 a.m., returned from break at 10:28 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 1:46 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, the agenda items that had been discussed while in executive session.
13. Agenda Item 6 – Order to Stop Working – Certified Stop Work Order was mailed to this individual on December 11, 2014 due to an untimely submission of an application for entry level training. Presented for informational purposes. No action required.
  14. Agenda Item 7 – Criminal Conviction Records as to Applicants for Entry Level Training Program. None to be reviewed. No action required.
  15. Agenda Item 8 – Retired Captain Sadler presented for informational purpose as to a possible request to attend the Entry Level Training Program as a Private Citizen from this individual at a later meeting. Individual who resigned from basic class two (2) years ago may be interested in attending Academy again as a private citizen for a second such private citizen attempt. No action required to be taken at this time.
  16. Agenda Item 9 – Retired Captain Sadler provided a certification review update on an officer appealing his revocation. Recommended finding still under review by Mr. Staton. Presented for informational purposes.
  17. Agenda Item 10A – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to approve the full reactivation of the law enforcement certification of the law enforcement officers listed in the agenda with the exception of officer in question. Sheriff McComas requested that DJCS staff make appropriate inquires to this officer's agency for additional information as to circumstances involved as to his departure from his past employer. The motion was approved unanimously with no further discussion.
  18. Agenda Item 10 B (1) – Officer #1 – Retired Captain Sadler provided an update on tabled item 10 B (2) from the December 22, 2014 meeting. This officer withdrew his request for a reactivation review before the Subcommittee. Application approved for Certification Retention Program. If officer becomes employed he will be flagged for a reactivation review. Presented for informational purposes. No action required.

19. Agenda Item 10 B (2) – Officer #2 – Motion made, Sheriff McComas, seconded Retired Sergeant Johnson to approve the reactivation of the certification of this officer. First Sergeant Nichols abstained from voting. Captain Lee voted no on the motion. The Chair was not required to vote as the six other members present voted in favor of the motion as presented with no further discussion. . The motion was approved.

20. Agenda Item 10 B (3) – Officer #3 - Motion made by Lieutenant Coleman to not reactivate this officer’s certification because his conduct as to his use of force during the incident in question and actions following the incident were of a nature that could result in his decertification. A roll call vote was requested by Retired Captain Sadler when the standard voice vote did not reflect clear approval or disapproval of the motion as made. The results of the roll call vote on the motion to not allow the reactivation of this officer’s certification was as follows:

First Sergeant Nichols	Yes
Chief Rinehart	Abstained
Lieutenant Coleman	Yes
Sheriff McComas	Yes
Captain Lee	Yes
Retired Lieutenant Walker	Abstained
Retired Corporal Gentry	No
Retired Sergeant Johnson	No
Retired Chief Stephens	Did not vote as Chair as there was a quorum voting in the affirmative or negative on the motion.

Motion as presented to not allow for the reactivation of this officer’s certification was approved by a majority of four (4) to two (2), with two (2) members abstaining and the Chair not voting unless there is tie vote.

22. Agenda Item 10 B (4) – Officer #4 – This officer was terminated as an “at will and pleasure” employee, no improper conduct noted. He is a full time officer at another law enforcement agency. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to allow his certification as an officer remain active so that he may continue to work at the other law enforcement agency which he had previously been working at. The motion was approved unanimously with no discussion.

21. Agenda Item 11 – Tabled from October 30, 2014 and December 11, 2014 meetings to allow for the provision of additional training information from the officer in question. He had appeared at the October 30, 2014 and this meeting and provided the additional information requested. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to approve this

officer, who has been separated for more than sixty (60) months as a West Virginia law enforcement officer, to attend the three week recertification program at the Academy in September 2015 to bring his certification as an officer fully current. The motion was approved unanimously with no further discussion.

22. Agenda Item 12 – This officer has been approved to participate in the equivalent certification program to be held at the Academy during September 2015. Provided for informational purpose. No action required.
23. Agenda Item 13– Review of officer’s ability to enter and complete the entry level training program. There were none, no action required.
24. Agenda Item 14 – Motion made, Sheriff McComas, seconded by Retired Sergeant Johnson, that the letter prepared by the prior counsel for the Subcommittee addressing the request for accommodations discussed during the December 11, 2014 meeting be approved with an addition to set a two week time frame following its receipt as to the actions that the officer in question and his agency must take as to providing information to the Subcommittee concerning the accommodation request. The motion was approved unanimously with no discussion.
25. Agenda Item 15 – Retired Captain Sadler provided an update from the Joint Standing Committee on Finance’s Legislative Interim Study addressing the LEPS Fund levels as to the draft report he had been provided from the committee staff attorney. Consensus approval for him to make a request to the staff attorney that the report correctly reflect that funding source as the LEPS Fund and not one with the State Police. A discussion followed at this time as to consideration being given by DJCS to seek an increase in the administrative fee they may charge concerning the LEPS Fund from 10% to 15%. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson. that that a letter be prepared by the Chair on the behalf of the Subcommittee members to be sent to Mr. Staton asking him to explore every other option rather than taking money from the training funds, The motion was approved unanimously with no discussion.
26. Agenda Item 16 – No action required on this item as Retired Captain Sadler had introduced Ms. Webb-Barber when the meeting opened. .
27. Agenda Item 17 – Retired Captain Sadler provided an update on the Legislative Rule Review’s proposed changes for CSR 149-2 during the 2015 Legislative Session. The legislation addressing it is running its standard course within both bodies.

28. Agenda Item 18 – 2015 Legislative Session as to items addressing the training and certification of law enforcement officers. An officer had submitted the changes in training requirements that he feels necessary for the Chief of Police Exemption and Firearms Training which were made part of the agenda mailing packet. He had been previously directed to address the matter to the legislators in his area. Provided for informational purposes. No action required.
29. Agenda Item 19 – Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker to approve the graduates of the 160<sup>th</sup> Basic Class as West Virginia certified law enforcement officers. The motion passed unanimously with no discussion.
30. Agenda Item 20 – Retired Captain Sadler and Ms. Mason provided updates on LEPSIS. The system continues to meet the expectations of the program staff.
31. Agenda Item 21 – Retired Captain Sadler and Ms. Boggess provided an update on the proposed structure and makeup changes to statutes addressing the Governor's Committee on Crime, Delinquency and Correction (GCCDC) and its respective Subcommittees. Ms. Boggess assured the Subcommittee that the changes being introduced into legislation would have minimal direct effect on the LEPS Subcommittee, that the substantive changes being considered related to the make-up of the Governor's Committee. Presented for informational purposes, no action required.
32. Agenda Item 22 – The Rules Review for the 2016 Legislative Session will be held at Stonewall Resort on Tuesday, April 28, 2014 and Wednesday, April 29, 2014. The LEPS Subcommittee meeting will be held on Thursday, April 30, 2014 at Stonewall Resort. The members were asked to bring their work calendars to check for these meetings.
33. Agenda Item 23 – At Mr. Staton's request Retired Captain Sadler presented an overview of the DJCS Vision Planning request to the LEPS Subcommittee. This will be discussed in detail during the legislative rule retreat in April at Stonewall Resort. Presented for informational purposes, no action required.
34. Agenda Item 24 – Retired Captain Sadler noted that a request for racial profiling information had been submitted to DJCS from the Governor's Office in preparation for a meeting on this issue. A request has been sent to West Virginia law enforcement agencies for any information that could be provided. Presented for informational purposes, no action required.
35. Agenda Item 25 – Update on actions taken by the LEPS Unit personnel relating to training and certification of officers as to the 161<sup>st</sup> Basic Class now

running at the Academy. Presented for informational purposes as reflected in the following concerning items 25 A to 25 C, no action required

36. Agenda Item 25 A – Certified Letters mailed due to resignations from the 161<sup>st</sup> Basic Class. Presented for informational purposes. No action required.
37. Agenda Item 25 B – Certified letters mailed due to First failure PAT's from the 161<sup>st</sup> Basic Class. Presented for informational purposes. No action required.
38. Agenda Item 25 C – Certified letters mailed due to Second failure PAT's from the 161<sup>st</sup> Basic Class. Presented for informational purposes. No action required.
39. Reminder to the members that the next scheduled LEPS Subcommittee meeting will be held on Thursday, February 26, 2014 at the WVSP Academy's 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. The motion passed unanimously with no discussion. Meeting adjourned at 2:20 p.m.

Agenda Item #19.

Approval of the graduates of the 160<sup>th</sup> Basic Class as West Virginia certified law enforcement officers (page 190-191)

Motion made, Sheriff McComas, seconded, Retired Lieutenant Walker. The motion passed unanimously with no discussion.

Agenda Item 5C – not sure if a decision was made to conduct classes here due to conversation going on all around me.