

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

February 25, 2016

MEMBERS PRESENT: Sheriff Tom McComas
Mayor John Manchester
Retired Chief Steve Stephens

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

ABSENT: Colonel Jerry Jenkins
Chief Steve Walker
Ms. Patti Hamilton

STAFF: Retired Captain Chuck Sadler
Ms. Kimberly Mason
Ms. Judy Strickland
Ms. Celeste Webb-Barber

The February 25, 2016 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee was called to order at 9:02 a.m. by the Chair, Retired Chief Stephens. There were eight (8) members either present or represented which represents a quorum of the Subcommittee membership, at the start of, and during, the meeting.

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

1. Agenda Item 1 – Consideration of the minutes from the January 28, 2016 meeting. Motion made, Sheriff McComas, seconded Captain L to accept the minutes as presented. The motion was approved unanimously without any discussion and no negative votes cast.
2. Agenda Item 2 A– The LEPS Fund Account Financial Report. Retired Captain Sadler provided the LEPS Fund Account financial update showing a negative balance of \$70,183.21. He explained that the negative balance was present due the approved steps taken previously to approve and obligate the costs of operating the entry level training classes through the end of calendar year 2016. He advised that as collected fees and tuition payments were received that the fund would be in a positive balance level by the time that these obligations had to be paid. The next projected major expense for the fund would be consideration of the Academy support staff positions approved annually in the past for approximately \$225,000. This funding request would be received in May or June 2016. Retired Captain Sadler once again noted that projected collections by time that request was considered should allow it to be approved, if at least for the first half of the grant period. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson to accept the report as presented. The motion was approved unanimously. without any discussion and no negative votes cast.
3. Agenda Item 2B – Retired Captain Sadler informed the Subcommittee that he was working with the DJCS accountant assigned to the LEPS fund in order to assure that the spreadsheet from which the monthly report was calculated was reflecting a correct fund balance. There will be a positive balance available to be obligated for future payments and he will keep the Subcommittee informed as to the LEPS Fund Balance after meeting with our accountant.
4. Agenda Item 2 overall item - Discussion followed the motion approving the preceding Agenda Item 2B point in which Retired Captain Sadler requested that approximately \$500 out of the LEPS Fund be used for Ms. Mason to attend the Prevention Resource Officer (PRO) Conference in July 2016 to allow her to discuss LEPSIS with the attendees and a report system designed for them. Motion made, Sheriff McComas, seconded, Captain Lee that the funds be provided as requested for Ms. Mason to attend the PRO

Conference. The motion was approved unanimously without any discussion and no negative votes cast.

5. Agenda Item 3 – Motion made, Sergeant Nichols, seconded, Retired Sergeant Johnson, for the approval of applications of individuals listed as certified law enforcement instructors in the areas of expertise listed. The motion was approved unanimously without any discussion and no negative votes cast.
6. Agenda Item 4 – Motion made, Captain Lee, seconded, Sheriff McComas, for the approval of applications for additional areas of expertise to be approved for previously certified law enforcement instructors. The motion was approved unanimously without any discussion and no negative votes cast.
7. 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 without any discussion and no negative votes cast.
8. 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 without any discussion and no negative votes cast.
9. 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. The motion was approved unanimously without any discussion and no negative votes cast.
10. Agenda Item 5D – Motion made, Sheriff McComas, seconded, Sergeant Nichols, that the class listed in the agenda packet be approved as a Train the Trainer level course of instruction. The motion was approved unanimously without any discussion and no negative votes cast.
11. Agenda Item 5E – Motion made, Captain Lee, seconded, Retired Sergeant Johnson, that the spring/early summer 2016 in-service classes being held at the WVSP PDC be approved as listed. The motion was approved unanimously without any discussion and no negative votes cast. .
12. Agenda Item 5F – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for annual in-service credit for the 2017 Training Year which runs July 1, 2016 – June 30, 2017. The motion was approved unanimously without any discussion and no negative votes cast.

13. At the indication of the Chair that there were personnel related matters to be discussed under Agenda Items 6 through 11 there was a motion made by Sheriff McComas, seconded, Captain Lee, and approved unanimously without discussion for the Subcommittee to go into executive session at 9:14 a.m. Motion made, Sheriff McComas, seconded, Sergeant Nichols, and approved unanimously without discussion for the Subcommittee to come out of executive session at 11:44 a.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.
14. Agenda Item 6A – Officer #1 – Stop Work Order from Agenda Item #15, January 28, 2016 LEPS meeting and pertaining to Agenda Item #9-I Certification Review to be discussed during today's meeting. Presented for informational purposes only, no action required.
15. Agenda Item 6B – Officer #2 – Stop Work Order pertaining to Agenda Item #10-B Reactivation review during today's meeting where officer left prior agency with standing in question. Presented for informational purposes, no action required.
16. Agenda Item 7 – Criminal Conviction Records as to Applicant for Entry Level Law Enforcement Training Program. Motion made, Captain Lee, seconded, Sheriff McComas, that this officer not be approved to attend the entry level law enforcement training at the Academy due to fact tht the arrest and conviction was not that far removed from his request to attend the Academy and other behavior that he had been involved in recently. The motion was approved unanimously without any discussion and no negative votes cast. A stop work order and position statement will be prepared addressing this decision.
17. Agenda Item 8 – Request to attend the Entry Level Training Program as a Private Citizen or be approved to be employed once again as a sworn officer following a department from the entry level training program. None presented. No action required.
18. Agenda Item 9A – Officer #1 – Retired Captain Sadler and Ms Webb-Barber had provided an update on the pending appeal from the previous Subcommittee decision pertaining to this officer. Mr. Maxwell has set March 21, 2016 to hold the hearing to develop record on this appeal and to prepare a Recommended Finding of Fact to Mr. Staton. Presented for informational purposes only. No action required.
19. Agenda Item 9B – Officer #2 – Retired Captain Sadler provided an update on pending appeal from Subcommittee actions, being addressed as needed by Ms. Webb-Barber. Mr. Maxwell is acting as the appointed Hearing Examiner

- for Mr. Staton. Presented for informational purposes only. No action required.
20. Agenda Item 9C – Officer #3 – Retired Captain Sadler provided an update on appeal of decision by Mr. Staton. Ms. Webb-Barber informed the Committee that she will be filing her response to this individual's counsel by February 29, 2016. Presented for informational purposes only. No action required.
 21. Agenda Item 9D – Officer #4 – Retired Captain Sadler provided an update on appeal of decision by Mr. Staton. He informed the Committee that each side has submitted final proposed orders to Circuit Court. No date set for judge to issue his ruling. Ms. Webb-Barber will continue to monitor. Presented for informational purposes only. No action required.
 22. Agenda Item 9E – Officer #5 – Retired Captain Sadler provided an update on action taken toward this officer. The Final Position Statement addressing the Subcommittee's decision was sent to this officer, and there has not been any notice of intent to appeal decision of the Subcommittee. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson to accept the Final Position Statement as presented. The motion was approved unanimously with no further discussion.
 23. Agenda Item 9F – Officer #6 – Draft Position Statement from action decided during the January 28, 2016 LEPS meeting in which Subcommittee voted to accept the surrender of this officer's certification as a West Virginia law enforcement officer. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to approve the Draft Position Statement. The motion was approved unanimously with no further discussion.
 24. Agenda Item 9G – Officer #7 – Draft Position Statement from action decided during the January 28, 2016 LEPS meeting in which Subcommittee voted to revoke the law enforcement certification of this former officer as a result of the plea and subsequent conviction for the criminal offense he has been charged with. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to approve the Draft Position Statement. The motion was approved unanimously with no further discussion.
 25. Agenda Item 9H – Officer #8 – This officer did not appear in reference to the review of the acceptance of his surrender of his certification as a West Virginia law enforcement officer due to an agreement with Kanawha County Prosecutor's Office in lieu of criminal charges. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson to accept surrender of this former officer's certification with Position Statement to follow. The motion was approved unanimously with no further discussion.

26. Agenda Item 9I – Officer #9 – This officer appeared before the LEPS Subcommittee on January 28, 2016 at which time the Subcommittee voted to decertify this officer as a result of his in-service training shortfall for FY2015 and misrepresentation of training completed. Stop Work Order will be mailed with Position Statement to follow. Provided for informational purposes.
27. Agenda Item 10A – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to approve the full reactivation of the law enforcement certification of the fifteen (15) law enforcement officers listed in the agenda packet. The motion was approved unanimously with no discussion.
28. Agenda Item 10B-1 – Officer #1 appeared before the Subcommittee after providing documentation of training received from former employer. Additional training information was requested and tabled from the January 28, 2016. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson to allow full reactivation of this officer and that he be approved to attend the 3-week recertification class to be held at the Academy in September 2016. The motion was approved unanimously with no further discussion.
29. Agenda Item 10B-2 – Officer #2 appeared before the Subcommittee for review of reactivation request where he left prior agency with standing in question. Motion made, Chief Rinehart, seconded, Retired Sergeant Johnson that this officer be approved for full reactivation. The motion was approved unanimously with no further discussion.

The Subcommittee took a break at 10:55 a.m.
The Subcommittee returned to meeting at 11:05 a.m.
30. Agenda Item 10B-3 – Officer #3 appeared before the Subcommittee for review of reactivation request where he left prior agency with standing in question. Motion made, Captain Lee, seconded, Chief Rinehart that this officer be approved for full reactivation. The motion was approved unanimously with no further discussion.
31. Agenda Item 10B-4 – Officer #4 appeared before the Subcommittee for review of reactivation request where he left prior agency with standing in question. Motion made Chief Rinehart, seconded Retired Sergeant Johnson, that this officer be approved for full reactivation. The motion was approved unanimously with no further discussion.
32. Agenda Item 11 – This officer appeared before the Subcommittee for reactivation review following separation of more than sixty (60) months as a West Virginia law enforcement officer. Motion made, Retired Corporal Gentry, seconded, Retired Sergeant Johnson. The motion was approved unanimously with no further discussion.

33. Agenda Item 12 – Equivalent certification program reviews as to decisions made. There were none, no action required.
34. Agenda Item 13 – Review of officer’s ability to enter and complete the entry level training program. There were none, no action required.
35. Agenda Item 14 – Request by an officer for accommodations relating to attendance in the entry level training program. There were none, no action required.
36. Agenda Item 15 – State Fire Marshal consideration of recommendations of minimum training standards policy they want to adopt.
37. Agenda Item 15A – Review requested by the State Fire Marshal’s Office of their Training Standards for Citation Powers tables at the January 28, 2016 meeting in order to give the LEPS Subcommittee members the change to review that agencies training requirements.
38. Agenda 15B – Proposed minimum training standards for State Fire Marshal’s Office to be considered for comment and action by the LEPS Subcommittee members.
39. Agenda 15C – Retired Captain Sadler informed the Subcommittee in an email dated February 23, 2016 that after speaking with the State Fire Marshal’s Office, he found out that there currently is not a draft that shows the changes from the 1984 Minimum Training Requirements for Compliance to Senate Bill 129. They said that since the 1984 version is so dated, they opted to totally revise what they are recommending be adopted now. The 1984 version is being replaced by the document beginning on page 198 in the agenda, Training Standards for Citation Powers. It was suggested that the Subcommittee review within the scope of what the State Fire Marshal’s Office has presented, and make any recommended changes applicable as to an individual receiving training to issue a citation. Motion made, Sergeant Nichols, seconded Retired Sergeant Johnson, to approve the document as presented by the Fire Marshal’s Office. The motion was approved unanimously with no further discussion.
40. Agenda Item 16 – Representatives from Fairmont State College appeared before the Subcommittee with a power point presentation on their four-year Bachelor of Science in Criminal Justice degree with an Academy based component during the student’s senior year to gain certification as a law enforcement officer in West Virginia. Retired Captain Sadler requested that they forward the Power Point presentation to him and he will forward to Subcommittee in order to discuss this proposal at the rules retreat at Stonewall in April.

41. Agenda Item 17 – FOIA requests and responses:
42. Agenda Item 17A – Retired Captain Sadler provided an update on FOIA related requests #1 from a WV probation officer on an officer whose law enforcement certification has been revoked due to criminal action he was involved in. There is another officer he has questions about, however, our records indicate that there has been no action of any type of review towards this individual. Presented for informational purposes only. No action required.
43. Agenda Item 17B – Retired Captain Sadler provided an update on FOIA related requests #2 from a reporter with the Wall Street Journal. She was requesting employment records related to training, hiring, and disciplinary action on two West Virginia law enforcement officers. Training and employment records only were provided as we do not receive or maintain disciplinary action records. It was noted that both officers law enforcement certification is active and in good standing. Presented for informational purposes only. No action required.
44. Agenda Item 18 – Retired Captain Sadler gave an update on the 2016 Legislative session. He informed the Subcommittee that there has, at this time, been no legislative impact on the LEPS Program.
45. Agenda Item 18A – Retired Captain Sadler informed the Subcommittee that he is working with applicable legislative staff as to the proposed changes to Legislative Rule 149-2. Proposed changes have been bundled into overall rules bill as SB159.
46. Agenda Item 18B – Proposed legislation addressing certification, training and/or qualification standards.
47. Agenda Item 19 – Legislative Rules Review will be April 26-27, 2016 at Stonewall Resort, followed by the regular monthly meeting on April 28, 2016.
48. Agenda Item 20 – Statewide Police Memorial Observance will be May 3, 2016 at 4:30 p.m. in the Grand Hall of the Cultural Center which is located on the Capitol grounds.
49. Agenda Item 21 – Actions/correspondence taken on behalf of LEPS Subcommittee by LEPS Program:
50. Agenda Item 21A – Retired Captain Sadler responded to an email requesting funding assistance for the development of a crime scene/forensic science training school at WVU. He informed them that there was no such funding available at this time and would contact them if he became aware of any type of federal funding.

51. Agenda Item 21B – Respond to an officer referencing his Academy status which was changed to a withdrawal due to illness/injury from a Basic Class at the Academy. With this change in status he will be able to make application into another entry level training course at the Academy.
52. Agenda Item 21C – Response to an inquiry concerning an individual being considered again to attend the Academy. He would have to come before the Subcommittee to discuss his ability to enter and complete a Basic Class at the Academy.
53. Agenda Item 23 – The next LEPS Subcommittee meeting is scheduled for Thursday, March 31, 2016 at 9:00 a.m. at the PDC.

There being no further agenda items set for discussion a motion was made by Sheriff McComas, seconded, Retired Sergeant Johnson, to adjourn this meeting. The motion passed unanimously with no discussion. Meeting adjourned at 12:57 p.m.