

The 2022-23 Budget:

Commission on Peace Officer Standards and Training

JANUARY 2022

Summary. In this post, we cover two proposals in the Governor's budget for the Commission on Peace Officer Standards and Training (POST). First, the Governor proposes General Fund resources and additional positions to implement a peace officer decertification program established by recent legislation. We find that POST has not requested resources to implement certain aspects of the new program and could face implementation challenges. We recommend the Legislature direct POST to submit a revised proposal in the spring that addresses these concerns. Second, the Governor proposes one-time General Fund support to develop a law enforcement officer wellness program. We find that key questions about the proposal remain unanswered including the goals of the program and the types of activities the program would fund and, thus, recommend the Legislature withhold action on the proposal until POST provides key details about the proposed wellness program.

OVERVIEW OF POST

Roles and Responsibilities. POST is an 18-member commission responsible for overseeing standards and training for certain California peace officers, including city police and county sheriff's deputies. Specifically, POST is responsible for setting minimum selection and training standards, developing and running law enforcement training programs, improving law enforcement management practices, and reimbursing local law enforcement for training. About 600 law enforcement agencies employing roughly 90,000 peace officers participate in POST's programs and abide by the commission's minimum standards.

Governor's Proposed Budget. The Governor's January budget proposes a total of \$110.2 million to operate POST in 2022-23, including \$63 million from the General Fund, with most of the remainder

coming from criminal fines and fees. This amount represents an increase of \$23.3 million (27 percent) from the revised 2021-22 level. The budget proposes a total of 263 positions for POST in 2022-23, an increase of 127 positions (93 percent) above the revised 2021-22 level. The proposed increase in resources is largely related to the two proposals we describe below.

PEACE OFFICER DECERTIFICATION PROGRAM

Background

Peace Officer Certification. Existing state law requires peace officers (excluding certain classifications like correctional officers) to receive a basic certificate from POST. This certificate is issued by POST when officers have met all minimum standards and requirements, such as completing required training, passing background checks, and completing a probationary term of employment with their law enforcement agency (typically lasting 18 to 24 months after the date of hire).

Peace Officer Decertification Program Established by Chapter 409 of 2021 (SB 2, Bradford and Atkins). Prior to the enactment of SB 2, POST lacked the authority to suspend or revoke an officer's basic certificate. Specifically, this legislation establishes a process for POST to suspend or revoke a peace officer's basic certificate for serious misconduct. (POST is currently in the process of defining serious misconduct through regulations, as required by SB 2.) This decertification temporarily (in cases of suspension) or permanently (in cases of revocation) makes an individual ineligible to be a peace officer in California. In addition, SB 2 requires officers who do not have a basic certificate (typically

officers completing their probationary terms and certain reserve officers) to obtain a proof of eligibility (pre-certification) from POST. Similar to a basic certificate, SB 2 allows POST to suspend or revoke a peace officer's proof of eligibility for serious misconduct.

SB 2 requires POST to review allegations of serious misconduct to determine whether decertification is warranted. Beginning January 1, 2023, these allegations will be submitted to POST primarily in two ways. First, all agencies employing officers who are required to have a basic certificate or proof of eligibility must report to POST allegations of serious misconduct that occur in the future, as well as those that have occurred since January 1, 2020. Second, members of the public can report allegations of serious misconduct directly to POST, including misconduct that occurred prior to January 1, 2023. POST can also choose to review an allegation of serious misconduct it becomes aware of in other ways, such as through media coverage.

SB 2 creates a new division within POST—the Peace Officer Standards and Accountability Division—to review all allegations of serious misconduct to determine whether decertification is warranted. For cases in which the division recommends decertification and the officer agrees with the recommendation, the case ends and the officer's certificate or proof of eligibility is suspended or revoked. If the officer contests a decertification recommendation, the case is referred to a new nine-member board within POST—the Peace Officer Standards Accountability Advisory Board. (The members of the new board will be appointed by the Governor and Legislature.) If the board determines decertification is warranted, the case is referred to the full 18-member POST commission, who will then vote whether to decertify the officer. If the commission votes for decertification, the case is referred to an administrative law judge who will render the final decision.

Governor's Proposal

The Governor's budget proposes \$22.7 million from the General Fund in 2022-23 (decreasing to \$20.6 million annually beginning in 2023-24) and 127 positions to implement SB 2. Specifically, the Governor's budget proposes the following:

- **Additional Staffing (\$19.5 Million).** The proposed budget includes 127 positions to staff the Peace Officer Standards and Accountability Division and provide POST with increased administrative staff. The positions for the new division include 51 decertification staff, 20 certification staff, 14 legal staff, 16 intake and disposition staff, 4 support staff, and a Deputy Director position to oversee the new division. The additional administrative staff include six human resources positions, six information technology positions, five positions for accounting and procurement, and four positions for communications and Public Records Act requests. In addition, the budget includes certain one-time and ongoing operating expenses to support these positions such as travel costs, startup equipment, storage for confidential information, and training.
- **Allegation Intake Software System (\$2 Million).** The budget includes \$2 million one time and \$900,000 ongoing for POST to procure a software system to facilitate and manage the intake of allegations of serious misconduct submitted by law enforcement agencies, which will likely include lengthy supporting documentation, such as documents related to internal investigations. (We note that POST has already developed a system for accepting allegations of serious misconduct from the public.)
- **Lease Costs (\$1 Million).** The budget includes \$1 million ongoing for POST to lease additional office space to accommodate the expanded workforce.
- **Peace Officer Standards Accountability Advisory Board Costs (\$179,000).** The budget includes \$158,000 ongoing and \$21,000 one time to support the new Standards and Accountability Advisory Board for costs such as travel, per diem, and training for the board members.

Assessment

It appears that POST staff have done a notable amount of research into how best to structure and implement the decertification program required by SB 2, such as by meeting with similar agencies in other states to review various models for administering similar programs. While these efforts are encouraging, we find that POST has not requested resources to implement certain aspects of SB 2 and could face implementation challenges. We describe these concerns below.

Resources for Certain Aspects of SB 2 Implementation Not Requested. The proposal does not include the staffing necessary to address workload associated with the one-time surge in reports expected for allegations of serious misconduct occurring prior to January 1, 2023. This is because POST indicates that its workload estimates and staffing requests are based on assumptions only about ongoing workload. Moreover, POST has not provided estimates of the expected size of this one-time surge in workload. The Governor's proposal also does not include staffing for the one-time certification workload to issue proof of eligibility certificates to officers who do not have a basic certificate, including approximately 4,400 officers who are still in the probationary period with their employing agency and 2,000 reserve officers who do not have a basic certificate. Without resources for this workload, it will be difficult for POST to fully implement the decertification program as envisioned by the Legislature, which could result in individuals who have engaged in serious misconduct serving as peace officers longer than they otherwise would.

POST Faces Significant SB 2 Implementation Challenges. POST will likely face significant challenges implementing SB 2, primarily due to the fact that the commission's staffing will need to roughly double by January 1, 2023—only six months after receiving funding in the budget if the Governor's proposal is approved. This challenge is compounded by the fact that POST will first need to fill the requested human resources positions before having the capacity to scale up the hiring of a large number of staff, particularly staff for classifications it does not currently employ (such as the attorneys who will handle the cases when an officer contests

a decertification). In addition, POST's current office space is insufficient to accommodate the proposed expansion in its workforce and POST has been informed by the Department of General Services that it will likely take a year or more to secure additional office space. It is unclear how POST will accommodate the increase in its staff in the meantime. Lastly, POST will need to procure an allegation intake software system to receive reports from law enforcement agencies and have the system operational by January 1, 2023. While it is feasible that POST can address these challenges, the Legislature will want to understand POST's implementation plans and any contingency plans that POST has to ensure it implements the SB 2 program on time. Effective implementation in the early stages of the program will be important for instilling public trust in the program and meeting program goals in a timely manner.

Recommendation

Direct POST to Present Revised Proposal in Spring. We recommend that the Legislature direct POST to submit an updated proposal in the spring that addresses the above concerns. Specifically, the proposal should provide additional workload estimates on the number of reports POST anticipates receiving related to alleged serious misconduct occurring before January 1, 2023 and how POST plans to accommodate this one-time surge in workload, as well as the one-time workload to issue proof of eligibility certificates. Lastly, the revised proposal should include a plan for addressing the implementation challenges we have identified, such as how POST will hire sufficient staff and house them in its existing office space to implement SB 2 in a timely manner.

OFFICER WELLNESS PROGRAM

Background

Officer Wellness Can Impact Officer Effectiveness. In recent years, greater attention has been placed on the wellness of first responders such as peace officers. The job requirements of a peace officer can be physically, mentally, and emotionally taxing. This is because officers can face dangerous situations, work late night shifts, and have repeat

exposure to violent situations. The overall wellness of officers is important for their ability to effectively carry out their duties, such as responding to and deescalating dangerous situations. For example, studies have noted significant rates of Post Traumatic Stress Disorder (PTSD) among peace officers with at least one study finding a correlation between PTSD and excessive use of force.

Governor's Proposal

Funding for New Officer Wellness Program.

The Governor's budget proposes \$5 million one time from the General Fund available over three years for POST to develop a law enforcement officer wellness program. The proposal identifies various categories of wellness the program would seek to improve, including individual officer wellness, organizational wellness, and community wellness. The proposal also identifies numerous potential wellness activities that might be developed or conducted with the requested funds, such as creating a podcast, holding workshops, improving training, developing videos, and other activities.

Assessment

Key Questions About Proposal Remain Unanswered. While the general concept of improving officer wellness has merit, the administration has not been able to provide detailed information about the proposal at this time to determine whether the proposed program would in fact improve officer wellness. Specifically, the administration has been unable to adequately respond to the following key questions:

- **What Are the Primary Goals of the Program?** While it is clear the program is intended to improve officer wellness, the more specific, primary goals of the program remain unclear. For example, POST has not provided information on the type of wellness—mental, physical, or emotional—the program is intended to improve.
- **What Problem Would the Program Solve?** POST has not identified what the highest-priority needs for improving officer wellness are or whether there are gaps in existing wellness programs offered by law enforcement agencies that it is attempting to fill.

- **What Activities Would Be Funded?** While the proposal identifies numerous potential activities, it is unclear whether the proposal would fund all of the listed activities or just some of them and how much funding would be allocated to each.
- **What Outcomes Are Expected?** POST has not described the outcomes it expects to achieve, such as the number of officers that it will reach or the number of trainings it intends to offer.
- **How Will SB 2 Implementation Affect the Program?** As discussed above, POST faces considerable SB 2 implementation challenges, including the need to roughly double its workforce by January 1, 2023. It is unclear how POST will be able to effectively implement SB 2 and the officer wellness program simultaneously.

We note that POST staff have indicated that many of the above questions cannot be answered until the program is more fully developed, which they indicate will take about 12 months. However, without answers to these questions, it is difficult for the Legislature to evaluate the merits of the proposal.

Recommendation

Direct POST to Provide Key Details Regarding Proposal. While the proposed program could have some merit, given the significant unanswered questions about the proposal, it is difficult at this time to assess whether it would be effective at improving officer wellness. Accordingly, we recommend that the Legislature direct the administration to provide sufficient details about how the program would be implemented. Until such information is provided, we recommend the Legislature withhold action on the Governor's proposal. If such information is provided demonstrating that the program is consistent with legislative priorities, would be likely to improve officer wellness, and would not interfere with the timely implementation of the SB 2 decertification program, we would recommend the Legislature approve the proposal. Otherwise, we would recommend the Legislature reject the proposal without prejudice to allow POST to more fully develop a proposal to improve officer wellness for consideration as part of the 2023-24 budget.

LAO PUBLICATIONS

This post was prepared by Jessica Peters, and reviewed by Drew Soderborg and Anthony Simbol. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.