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THE POST DISPATCH

THE LATEST NEWS AND UPDATES FROM
COLORADO POST

LETTER FROM THE DIRECTOR

Unlawful Use of Physical Force Law Explained

Over the past couple years, several laws took effect that impact POST certification. This has resulted in many questions on how peace officers and law enforcement agencies should comply with them. POST has worked to educate on this matter, including presentations to agency executives and several statewide virtual meetings. We must, and will, continue outreach efforts to keep you updated on potential impacts to POST certification, as well as other POST issues.

POST staff have been receiving questions regarding the unlawful use of physical force law, which can result in the suspension or revocation of POST certification.

An earlier concept for § 24-31-904, C.R.S., in HB 21-1250, was to hold peace officers accountable for the use of excessive force. But *how* do you define “excessive” force? For the most part, a finding that a peace officer used “excessive” force would rely on agency policy. This would have created a patchwork of policies across the state, leading to inconsistencies. For example, the same use of force, under the same circumstances, could be found completely reasonable and appropriate under one agency’s policy, while being found excessive under another



agency’s. This outcome would not allow our peace officers across the state to be treated with fairness and equity, and an uneven application of the law.

Instead, we flagged this problem for awareness to the General Assembly. The legislature then opted for a statewide standard, via the statutory phrasing of “use of unlawful physical force.” After the legislation passed, the POST Board modified POST Rule 1 to further define the “use of unlawful physical force” as meaning a use of force that violates title 18 of the Colorado Revised Statutes.

The statute requires a finding by a “court, administrative law judge, hearing officer, or internal investigation” that a certificate holder used, or threatened to use, unlawful physical force. These findings must be reported to POST. While the statute says the

POST Board “shall” suspend a certification for no less than one year, or permanently revoke a certification (depending on severity factors), **actions against a certificate are not automatic**. After POST is notified of such a finding, POST will send a notice to the affected peace officer notifying them of the report to POST. The peace officer has 30 days to request, in writing, a hearing. If the peace officer requests a hearing, POST will request the relevant documents pertaining to the finding and conduct a review to determine if the finding qualifies for potential action under the statute. If POST determines the finding meets the statutory requirement, we will refer the matter to an Administrative Law Judge (ALJ) for a hearing. Once the ALJ makes a finding of fact, the matter goes to the POST Board, which can adopt, or reject, the finding and recommendation from the ALJ. This process was designed to ensure a peace officer has adequate due process before any action is taken against their POST certificate.

NOTE THAT

The POST Board process is not dependent on a District Attorney’s Office deciding to pursue or not pursue a criminal case related to the incident, as this is not a requirement of the statute.

As an example, if a peace officer was found by an internal investigation to have violated

an agency policy on Discourtesy and using an unapproved arrest control technique during an arrest, but the internal investigation did not mention a finding of a use of force that violated title 18 of the Colorado Revised statute and no referral was made to the District Attorney’s Office, POST would likely find this incident did not meet the statutory requirements to cause an action against the peace officer’s POST certificate. No referral to the ALJ would be made.

On the other hand, if a peace officer was found by an internal investigation to have punched a non-resistive handcuffed arrestee in violation of the Assault in the Third Degree statute under title 18 of the Colorado Revised Statutes and had referred the matter to the District Attorney’s Office for potential prosecution, POST would likely find this incident met the statutory requirements to take action against the peace officer’s POST certificate and would refer the matter to the ALJ.

It is always hard to use hypotheticals, like the ones above. These are just some examples to try to illustrate the basic requirements of the statute. All matters referred to POST are analyzed on a case-by-case basis, utilizing the specific facts of that case. Many of the statutory requirements regarding POST certification can be complex, and confusing. Never hesitate to [reach out to me or other POST staff](#) with any questions or concerns you may have. We will do our best to help you promptly!



The Work on Mental Health Initiatives Continues

In previous editions of the POST Dispatch, I have emphasized the importance of peace officer mental health. This issue remains one of my top priorities for several reasons. First off, those serving the public confront traumatic situations regularly; they deserve our support. Second, taking care of our peace officers' mental health allows them to take care of our communities and be more effective at work. Finally, at a time when we are struggling with retention, investing in officer safety and wellness is a way we can address this issue.

Over the last few years, POST has invested in a few programs aimed at improving peace officer mental health. I would like to highlight a few of them. POST has created a Peer Support toolkit, viewable [here](#) and has partnered with IACP and IADLEST to create a nationwide officer health and wellness course for academy recruits that will be used here in Colorado. POST and the AG's Office also worked hard to add \$3 million to support the current grant program for mental health services for law enforcement officers. This doubles the program's funding to support peace officer mental health, working to achieve the imperative that every officer in our state have access to mental health services.

During this last legislative session, I also supported SB 22-181, which increases mental health resources for peace officers,

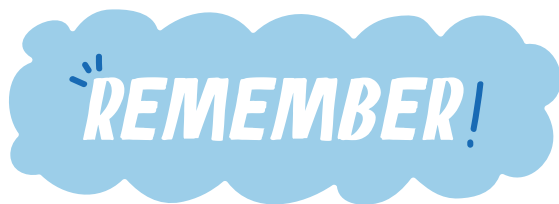
especially in rural and frontier areas where they are harder to come by. This bill provides incentives for increasing the number of mental health professionals to work in these areas and requires the Behavioral Health Administration (BHA) to provide increased support for peace officer mental health. It must do so by expanding telehealth capacity and infrastructure to make mental health resources more readily available; increasing the number of peer support professionals across the state; and working with a variety of first responder stakeholders to provide training focused on behavioral health and cultural competencies with the intention of reducing the stigma associated with seeking mental health help. Our office worked with the bill sponsors to include the cross-training of current and former first responders in behavioral health, with the intent of involving mental health professionals who understand the particular challenges our first responders face. Through this addition, BHA must now also provide a plan for student loan repayment programs and scholarships to current and former first responders with at least five years' experience. It's critical that we take care of those who receive trauma merely by serving and protecting our communities.

**IF YOUR AGENCY IS
INTERESTED IN
BENEFITING DIRECTLY
FROM THESE PROGRAMS,
PLEASE FEEL FREE TO
REACH OUT TO OUR
OFFICE.**



Setting Academies for Success

Compliance team has been busy proctoring in-person exams and conducting inspections with SMEs. They also presented virtually two new trainings for academy directors and staff. In general, the academy director position is challenging, given the conflicting demands. This year there has been a significant turnover and Compliance wanted to streamline the training. In addition, there have been changes in curriculum and lesson plan requirements from the Board. Compliance plans to record the next training and host it on the [POST website](#) for future reference.



It is enrollment season for academies so please ensure fingerprints are submitted on time and according to POST Rule and Colorado Revised Statute.

If you have any questions or concerns, please [reach out for guidance](#) to ensure your recruits are enrolled and remain in the academy. This is one of the most reoccurring issues Compliance faces due to agencies fingerprinting their own recruits and not following POST procedure. POST is not just receiving results for a background; instead it gets notified through the CBI of fingerprinting of the individual for as long as

they remain certified. This will only happen if the procedure in place is followed. Compliance created a NEW guide for fingerprinting POST applicants via LiveScan, available [here](#). They are also seeking a POST Rule change to ensure recruits are not participating in academies without fingerprint results.



TRAINING

COPLINE - An Officer's Lifeline

POST takes an active role to support wellness among law enforcement professionals and their loved ones. For officers seeking confidential help, [COPLINE](#) has a 24-hour hotline assistance. Specifically trained in peer listening, retired law enforcement officers continue to serve those in need. If the caller requires further assistance, COPLINE can offer access to vetted clinical referrals.

"Beginning July 16, 2022:

- 988 will be the new three-digit dialing code connecting people to the existing National Suicide Prevention Lifeline. For veterans, after dialing 988, press 1 and they will be routed to the Veteran Crisis Line.
- 1-800-273-8255 number and chat link <https://www.veteranscrisisline.net/get-help/chat> or text (838255) will continue to operate as they normally have."

Additional resources, including training courses, conferences, and peer support information are available on [POST website](#).

FY22 in Review

This year, POST was pleased to award a Capital Improvement Grant to the Rooney Valley Law Enforcement Training Facility located in Golden to help fund this newly built restroom at the firearms range. The restroom was critically needed at the range to support the ongoing outdoor skills training utilized by over 1200 certified peace officers annually.



POST grants staff completed:

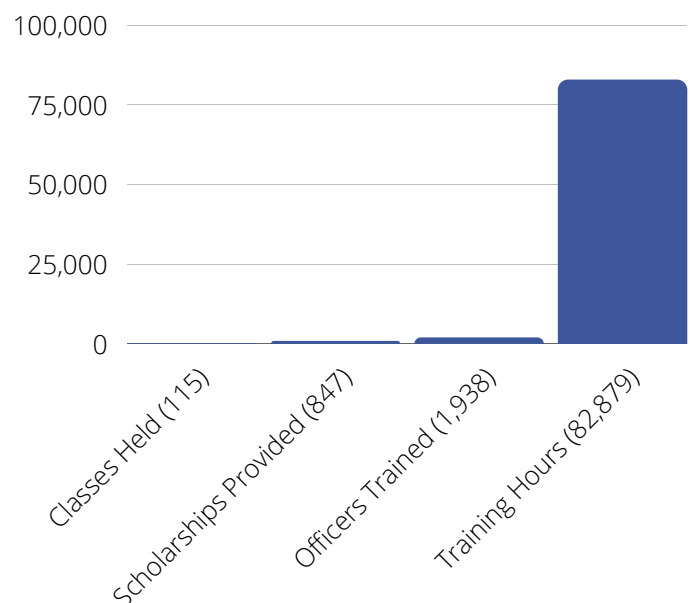
- A \$186,844.30 reimbursement for the FY22 Capital Improvement Grant Program.
- 13 purchase orders to send 16 cadets through an approved academy for the Rural and Small Academy Scholarship Grant Program. Ten cadets have finished the academies and payment had been made to their agencies.
- A \$50,000 in reimbursements for law enforcement individuals to attend DU's Public Safety Leadership Development course. Twenty-five officers graduated.



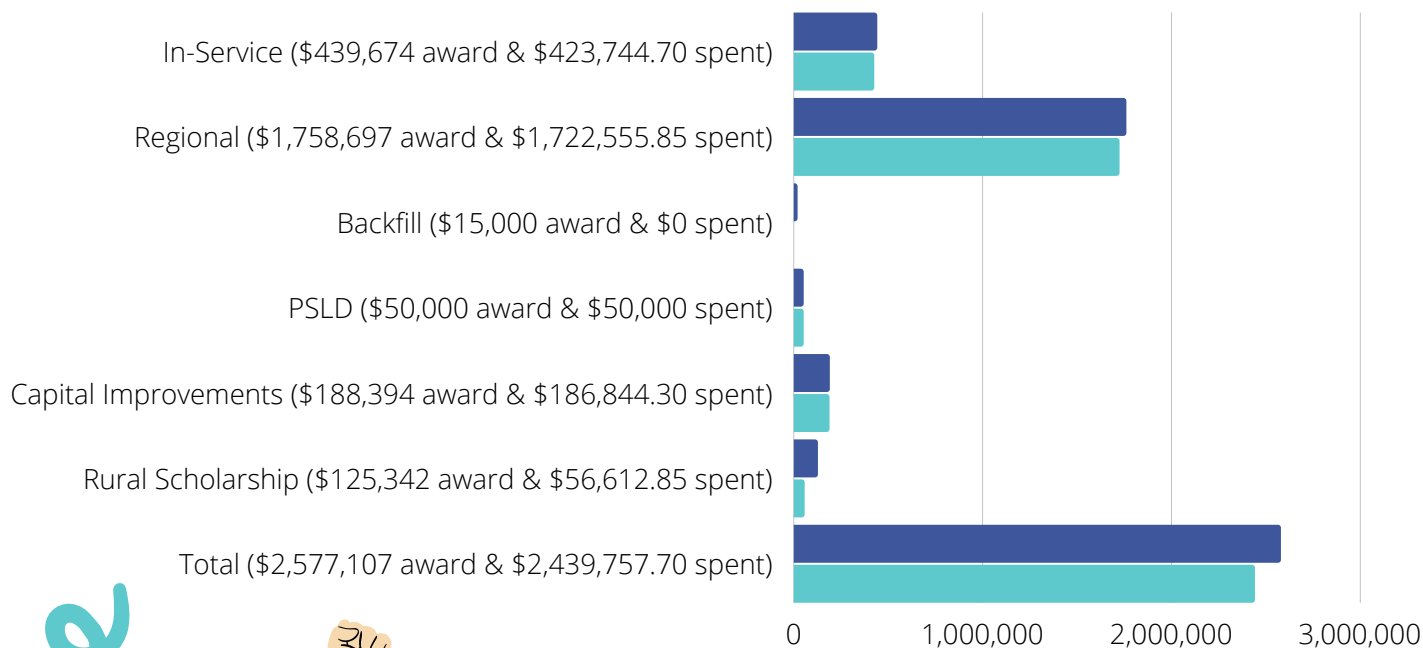
INTERESTED TO STUDY LEADERSHIP AT DU?

POST has scholarship funds available for the FY23!

Above is a recent graduating class of a Public Safety Leadership Development program taught by the University of Denver. It focuses on communication, interpersonal skills, and building trust. If you are a peace officer and would like to apply for a scholarship, please see [POST website](#) for more information.



Between all grant programs, 94.20% had been expended for the FY22 grant year which ended on June 30, 2022.



**POLICEONE
ACADEMY**

116,093

**OFFICERS HAVE
COMPLETED THE COURSES
TO DATE, TOTALING IN
135,401 HOURS.**

Very Small Agency Backfill Grant Program

The Very Small Agency Backfill program is meant specifically for agencies with 10 or fewer peace officers. It can be used to backfill for certified officers as well as sworn detention officers. Larger agencies will be given consideration on a case by case basis.

This program is designed to assist “very small agencies” with schedule coverage so their staff can attend law enforcement training. POST will reimburse the providing agency up to \$50/hr. for each hour their staff works under this program, which includes benefit costs. Additional funds may be requested in order to cover travel time, lodging costs and mileage for officers providing the backfill.

Agencies wanting to reimburse their own employees’ overtime for coverage should request funding from the [In-Service grant program](#) or submit a request to their training region.

Law enforcement agencies interested in applying for grant funding must complete an application for funding at least 30 days in advance of the training.

More information [here](#).

Chief Chris Heberer: Fountain Police Department's Philosophy on Leadership, Training and Organization Culture. Part II

So, what is culture and how should it be practiced in law enforcement? The definitions of culture include:

- The systems of knowledge shared by a relatively large group of people.
- Culture is communication, communication is culture.
- In its broadest sense is cultivated behavior; that is the totality of a person's learned, accumulated experience which is socially transmitted, or more briefly, behavior through social learning.
- A culture is a way of life of a group of people: the behaviors, beliefs, values, and symbols that they accept, without thinking about them, and that are passed along by communication and imitation from one generation to the next.
- The sum of the learned behavior of a group of people that are generally considered to be the tradition of those people and are transmitted from generation to generation.
- A collective programming of the mind that distinguishes the members of one group or category of people from another.

Establishing an effective and positive culture can be the single most difficult challenge for law enforcement leaders. If the above definitions are widely accepted, then culture is a learned behavior and programming of the mind. Doesn't this sound a lot like leadership? As law enforcement professionals, we should be concerned. Why? Because doing things the way they have always been done does not allow for changes within a culture to meet societal interests and increased pressure for police reform. It's not a secret that people don't like change, and police officers and their departments are no different. A positive culture starts at the top of any organization, whether it be a Police Chief, an elected Sheriff, or a CEO of a major corporation.



Transparency and clarity are crucial to achieve the desired culture, which should be based on the needs of the community. But where do you start? First, there must be a precise mission, vision statement, goals and/or objectives that are visible for the entire organization to see every day. This message must be relentlessly supported on different levels and echelons. Employees must feel valued and realize they are the foundation for a positive culture and have the primary stake in the execution of the organization's daily mission to a high standard. Without them it is difficult to establish and improve upon an existing culture. This directly ties back to leadership. There are many ways to develop a new culture or enhance an existing one. Right now, virtually all departments across the country are short-staffed and are forced to do more with less. In Fountain, we continuously practice "full service" leadership. Meaning, we are present with our people and we provide both professional AND personal guidance. This also means our leaders evaluate themselves on a regular basis.

Training is one of the most important aspects of promoting a positive culture. It reinforces agency expectations of the employees and reminds how they are

supposed to do things within the law, such as what a valuable tool discretion is. Training should be personalized based on life and professional experience of the individual. If an agency can identify an employee's niche, and capitalize on their strength with appropriate training, it is more likely that the employee will become an asset in the future. While there are annual mandates for all departments through their respective states, training should go well beyond those requirements and feed into the culture building process as time and resources allow.

Along with training, some other things that promote a positive culture:

- Consistent and fair discipline.
- Award ceremonies.
- Activities that recognize and promote your culture. For example, community gatherings, citizen police academies, police explorer programs, and team building events.

It's difficult to be in law enforcement right now, so seek creative ways to give your people a positive experience. It doesn't have to be big. Sometimes a personal conversation, a handwritten thank you card and other thoughtful things can mean the world to your employees.

Most law enforcement agencies have similar staffing and retention challenges. A lot of the young men and women we hire do not put financial reasons for staying in their job as their top priority: they want to feel valued and be part of a team first. A positive culture promotes itself and soon becomes common knowledge, just as a bad organizational culture does.



As a small town of just over 30,000 citizens and a police force of about 60 sworn officers, we cannot offer high wages and signing bonuses. We can, however, offer a culture that promotes the employee and their skill set at all levels. We found that employees are willing to take less money and work for an agency that can offer employee value, full-service leadership, and inclusion into the culture. Make no mistake; full-service leadership is not for the faint of heart and there is a mental toll that comes with being so involved.

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But the payoff for the organization and the citizens is that they have leaders who promote high values and are committed to provide the level of service they deserve. Finally, it has been proven that those organizations with a strong, people-based culture survive adversity and are more resilient than organizations without. We find ourselves in a difficult time, so it's critical we strive to make it better. It is human nature to make mistakes, but a culture that supports the employee in both good and bad moments is an organization that will be stronger in the end. As stated earlier, culture must be flexible, while keeping the vision and mission at the forefront. It must

be talked about often and the example must be set by the leaders of the organization, primarily from the top. Employees, when well led, well trained and well informed, will strive to meet the goals and expectations that are set; and there must never be an end game. All organizations should always strive to improve their current culture. As leaders, we must never be satisfied with the status quo and must embrace changes that are before us, especially in the dynamic environment of today's world.

It has been my highest professional achievement to serve alongside the outstanding men and women working in Colorado Public Safety and I am proud to call Colorado my home. Thank you!

POST BOARD HIGHLIGHTS

June 3 Session

The POST Board held a meeting on June 3, where it heard multiple variance requests and SME reports, performed revocations and discussed academy redesign project. Among other topics considered are emergency suspension, Rule 29 modifications and grant awards. The Board also approved revisions to grant guidelines. The Board is grateful to State Services for partnering up and providing space for the meeting, which worked out really well.

