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**THE IMPACT OF OUTSIDE
FORCES ON THE POLICE DISCIPLINE PROCESS
BY THE YEAR 2002**

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COMMAND COLLEGE CLASS 15
PEACE OFFICER STANDARD AND TRAINING (POST)
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This Command College Independent Study Project is a FUTURES study of a particular emerging issue in law enforcement. Its purpose is NOT to predict the future, but rather to project a number of possible scenarios for strategic planning consideration.

Defining the future differs from analyzing the past because the future has not yet happened. In this project, useful alternatives have been formulated systematically so that the planner can respond to a range of possible future environments.

Managing the future means influencing the future--creating it, constraining it, adapting to it. A futures study points the way.

The views and conclusions expressed in the Command College project are those of the author and are not necessarily those of the Commission on Peace Officer Standards and Training (POST).

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INTRODUCTION

The way the public views police officers will vary depending on the region of the country, economic viability of the community and the willingness to pay for police protection. The confidence level of the public in the police department's ability to maintain order is dependent upon the perception by the public that police officers are well trained, efficient and dedicated in the performance of their duty. This perception is grounded in the way the police are portrayed in the media and how they conduct themselves publicly and privately.

The confidence of the public is enhanced when the following conditions are met:

1. officers' off duty conduct is lawful
2. crime victims are treated courteously
3. officers serve as cooling agents with victims
4. there is a decrease in aggressive patrol tactics
5. officers minimize enforcement of victimless crimes.¹

These positive views of the police can be overshadowed by the perception that police misconduct or malfeasance is allowed to go unpunished or is under-punished.² The year 1991 brought to light what police critics have called a continuing pattern of police misconduct that has been covered-up. Although the problem existed before the video-taped arrest of Rodney King on March 3, 1991 shown repeatedly on television across the country and around the world focused attention on police officers' actions and how police agency executives respond to allegations of misconduct or malfeasance. Civilian review has been emerging for several years with 32 of 50

of the largest cities in the United States having some sort of public review process.³

In response to public outcry, the Mayor of Los Angeles created an Ad Hoc Commission, headed by former Deputy Attorney General of the United States Warren Christopher, to conduct "a full and fair examination of the structure and operations of the LAPD."⁴

At about the same time, the Los Angeles County Sheriffs Department came under criticism because of an increase in the number of officer-involved shootings. The Los Angeles County Board of Supervisors commissioned a study of the Sheriff's Department headed by retired Superior Court Judge James G. Kolts.⁵ Both of these reports were high profile inquiries into large organizations which were perceived by the public and their elected representatives to be well disciplined and efficiently managed. Both the Christopher and Kolts reports were highly critical of the leadership and management of the organizations studied. Both reports questioned the thoroughness of investigations of allegations of misconduct and both called for change in policies regarding actions of police officers.

These events led the writer to examine what effect these reports and the raised level of public awareness of police officer discipline would have on the discipline process in the future. The writer identified the emerging issue question as "What will be the impact of outside forces on the police discipline process in the year 2002?"

In determining whether this issue question was worthy of study this researcher identified several outside forces that lend legitimacy to the effort addressed in this paper. The Police Chief magazine in February, 1992 carried two articles which discussed the issues of police misconduct. Missy K. O'Linn⁶ discussed training as a means of prevention whereas Milton Thurm⁷ wrote about civil liability and the admissibility of misconduct investigations in federal civil rights trials.

The public has long had a concern about how miscreant police officers are dealt with and how internal affairs disciplinary actions can affect the public they are pledged to protect. These concerns often find their way into both professional and popular magazines. Lew Irwin⁸ in a Columbia Journalism Review article offers an explanation of the reasons why television is slow to cover police brutality. He suggests that television values its relationships with the police as a source for stories to be broadcast. Hans J. Massoquoi⁹ presents twelve steps to stop police brutality in his July 1991 article in Ebony magazine. The trial of the four officers in the Rodney King beating case has led some to suggest that there is a pattern of brutality that affects the way the Los Angeles Police perform their duties.¹⁰

Some jurisdictions have a form of civilian review that have proved to be successful¹¹, which is why the Christopher¹² and Kolts¹³ reports both urge their implementation as a way to regain lost public confidence in the Los Angeles Police Department and the Los Angeles Sheriff's Department.

Sometimes, when the public seeks to have its police forces free of officers who do not provide the kind of protection they believe they are entitled to, they turn to the legislature to mandate change or they seek remedies in court to vindicate their loss of civil rights. In the legislature, however, the police officer employee organizations have often been successful in resisting legislation that exposes their members to potential sanctions. The Los Angeles Daily Journal carried two articles which illustrate this point. Tom Drussler¹⁴ wrote about the contributions police employee organization make to legislators, while Hallye Jordan^{15, 16} wrote about two pieces of legislation considered by lawmakers that discussed a rejection of tough anti-brutality measures in one instance and a bill allowing a victim of police misconduct to sue officers who fail to report such misconduct. The courts play an active role in how discipline is viewed by the public and the officers themselves. There are attorneys whose practice is based on suing police departments and individual police officers. Gail Diane Cox¹⁷ wrote about such lawyers and their methods and the philosophy of law upon which they base their cases. The courts reject some theories of misconduct and often attempt to extend liability to the agency for acts committed by its officers.¹⁸ This does not mean that courts regularly support defenses advanced on behalf of law enforcement to civil court complaints, but illustrates the uncertainty of results that parties face going to court.

Against this backdrop this writer had, over time, developed real questions about what impact these outside forces would have on police officer discipline. In most instances the chief executive of an organization is responsible for the day-to-day operation of an organization. This responsibility includes the imposition of discipline when employees deviate from the accepted practices of the organization. Generally, a law enforcement chief executive has been able to address problems of discipline as an internal matter of the organization with little or no interference from outside forces. Public sector chief executives are subject to a high level of scrutiny when making decisions, including those which pertain to discipline because these executives are doing the public's business. Therefore, The public has the ability to make inquiries into disciplinary actions. Open meeting laws adopted by the state legislature provide the opportunity for the public to ask about these questions.

When police officers have been found to have violated department rules, the public has displayed a keen interest in the discipline administered. This interest is heightened because of the amount of discretion that police officers have when enforcing laws, coupled with the greater demand for police services to address the many problems the public faces today.

In the work that follows, this researcher identified trends and events which were forecast and produced a strategic plan as well as a transition management plan to provide a vehicle for

change to prepare to meet future needs in the areas discussed above. This report is intended to be a guide to those law enforcement executives who are unwilling to have the fate of their agency, or of themselves, determined by outside forces when they discipline police officers, and who therefore intend to take a proactive stance with regard to these problems.

FUTURES STUDY

The futures study that follows is divided into six phases. Those phases are: 1) Identification of the issues, relevant subissues and potentially relevant trends and events; 2) definition of selected trends and events; 3) forecasting of trends and events; 4) a cross-impact analysis of trends and events; 5) examination of nominal, normative and hypothetical scenarios; 6) policy identification and analysis.

Phase I

Identification of Subissues, Trends and Events

The issue question emerged from the literature scanned in the Introduction is as follows:

What will be the impact of outside forces on the police discipline process by the year 2002?

A futures wheel was used to identify the following three possible subissues for the futures study (Appendix A).

- 1) What role will the courts play in effecting the appointing authority's ability to manage discipline?
 - a) Creating new rights for employees
 - b) Granting injunctions to stop or slow the process
 - c) Overturning imposed discipline

- 2) What effect will employee organizations have on the management of discipline?
 - a) Use of grievance procedures to change the results of discipline
 - b) Use of collective bargaining to effect discipline
 - c) Search for legislative changes to effect discipline

- 3) What role will the public play in the management of discipline as it demands accountability for police misconduct?
 - a) Imposition of civilian review process
 - b) Formation of a task force on discipline
 - c) Use of the initiative process to change discipline process

Significant Trends and Events:

To facilitate the development of a list of the most significantly related trends and potentially impacting events considering the stated issue and subissues a nominal group technique was conducted with a seven member panel (Appendix B). The panelists were each sent a letter (Appendix C) inviting them to a meeting to assist in gathering data for the independent study project and introducing them to the proposed title of the project. The first order of business was to introduce the issue to the panel. Then this panel was given a definition of trend and event as it would be using these terms during the course of the day. (Appendix D)

The panel was given a list of eleven possible trends with instructions to "self generate" such additional trends it believed were relevant to the issue question. The panel added its ideas to the preliminary list. All the possible trends were displayed on flip charts. The panel spent some time trying to get an understanding of what each trend statement meant. In some cases, proposed trend statements were merged when the panel agreed on what a particular statement meant. Next the panel was asked to vote for the most important trends and prioritize its preferences. A weighted scale was used to identify the five trends the panel believed to be most relevant to the issue question. See Appendix E for a complete list of twenty-seven possible trends the panel considered. The panel used the same process to identify events after being given a short list of seven to stimulate its thinking. The complete list of thirty-two possible events are contained in Appendix F.

Phase II

Definition of Selected Trends and Events

Trends

The nominal group panel identified five trends it believed were most important to the stated issue question.

Trend 1

Public Access and Limitations on Department Policy. This trend means a change in the involvement by the public in its efforts to influence overall policy.

Trend 2

Union Militancy and Involvement in the Discipline Process. This trend involves a change in the involvement by the union in discipline because next to economic gains, discipline is high on its list of priorities.

Trend 3

Scrutiny by the Courts. This trend was defined as the impact past courts have had in the past and future courts may have on the way discipline is administered and managed.

Trend 4

Legislative Activity. This trend was defined as the action by a legislative body in passing laws that impinge on the discipline process. It was understood the most activity would be in the State Legislature but there was recognition that local and federal laws might also affect police departments.

Trend 5

Changing Public Expectations. This trend was defined as the level of expectations the public has for police services and the corresponding demand for accountability by police departments.

Events

This panel was asked to select five events which had the highest probability of occurring and to forecast how significantly they would impact the identified issue and subissues. The following five events were identified:

Event 1

A Major Police Incident. This event is of such proportion that it places the agency under intense media and public pressure and may lead to changes in policy or personnel.

Event 2

Court Decision Affecting Discipline. This event is defined as a single court decision that alters the discipline process by its precedent-setting result.

Event 3

Collective Bargaining with Arbitration. This event is the adoption of a process that, when negotiations are at an impasse, places negotiations in the hands of a third party who has no public responsibility or accountability.

Event 4

New Law Re: Discipline

This event is the passage of a new law which changes the way discipline is managed and administered.

Event 5

Citizen Oversight. This event means an implementation of a process whereby the public reviews the discipline process to ensure accountability or the actual hiring of non-police officers to investigate allegations of police officer misconduct.

Phase III

Trend Forecasting

Trends Forecasts

The purpose of this section is to provide a forecast by the panel of the selected trends. The panel was asked to estimate the relationship of the identified trends to five years ago as well as five years and ten years into the future using today as an assumed level of 100. A trend which is given a zero ceases to exist; the ratio scale has no upper limit. Table 1 depicts the median forecasts.

TABLE 1: Trend Evaluation

| TREND STATEMENT | | LEVEL OF THE TREND (Today = 100) | | | |
|-----------------|----------------------|-------------------------------------|-------|----------------|-----------------|
| Trend # | | 5 Years Ago | Today | 5 Yrs Firm Now | 10 Yrs Firm Now |
| T-1 | PUBLIC ACCESS | 85 | 100 | 105 115 | 120 140 |
| T-2 | UNION MILITANCY | 100 | 100 | 105 120 | 105 120 |
| T-3 | SCRUTINY BY COURTS | 90 | 100 | 105 110 | 105 110 |
| T-4 | LEGISLATIVE ACTIVITY | 100 | 100 | 100 110 | 100 110 |
| T-5 | PUBLIC EXPECTATION | 75 | 100 | 110 120 | 115 135 |

Panel Median N = 7

| | |
|--------------|--------------|
| Will Be | Will Be |
| Should Be | Should Be |

Figure 1: Trend 1

PUBLIC ACCESS

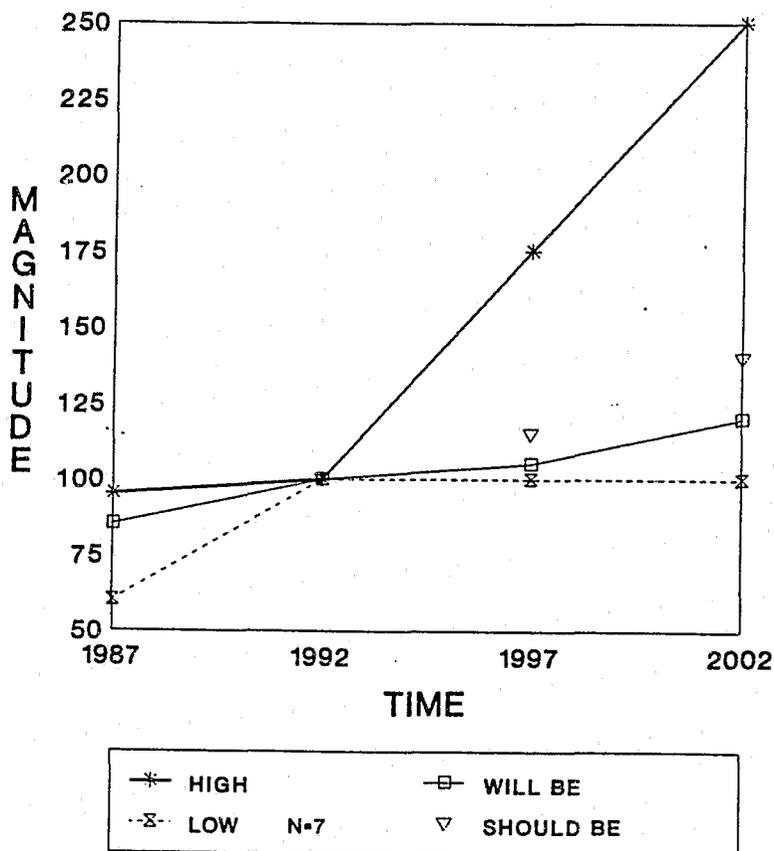


Figure 1 shows the panel's forecast as to the increasing involvement by the public from five years ago going up slightly in the next five years with a slightly steeper rise ten years downline. One panel member believed there would be an exponential rise in the demands of the public to be involved based on all of the changes taking place. The panel consensus was the public did want to play a greater role in how the police force should be managed.

Figure 2: Trend 2

UNION MILITANCY

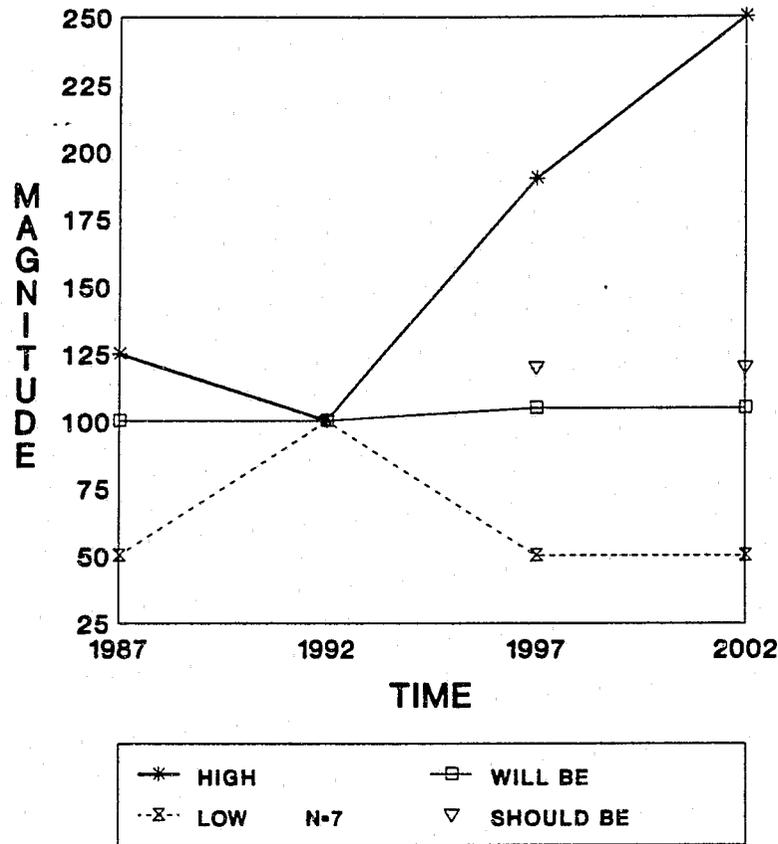


Figure 2 shows that the panel median regarding union militancy has been constant over the past five years with an expectation of a slight increase over the next five years and then remain constant the following five years. The divergence by two panel member accounts for wide range of the response, with five panel members providing responses close to the median. The panel believed the current economic situation will continue which will significantly impinge on the overall ability of a union to be militant.

Figure 3: Trend 3

SCRUTINY BY THE COURTS

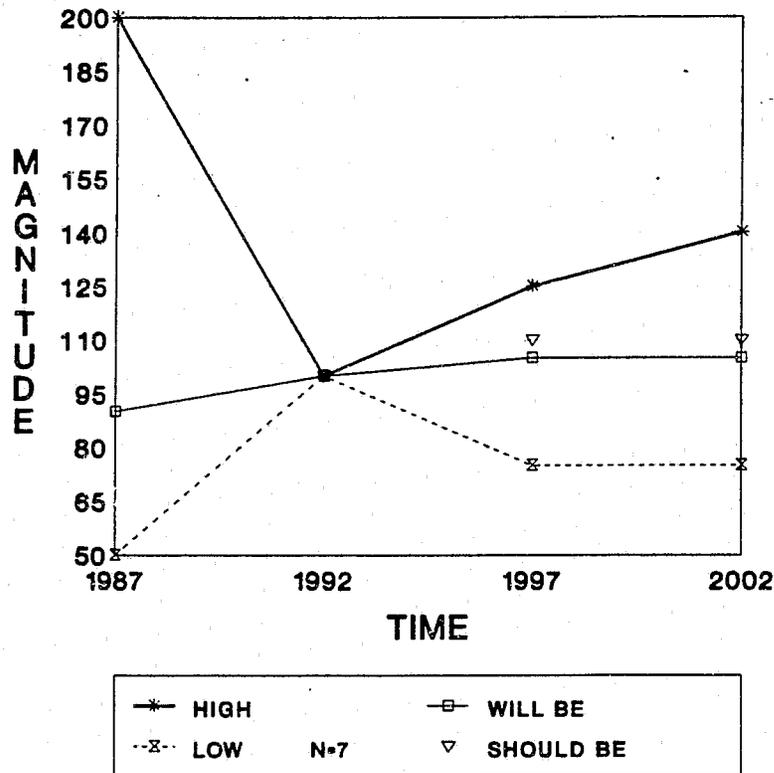


Figure 3 shows the panel median to be a belief that scrutiny by the courts has increased in the last five years with a slight increase in the next five years and leveling off thereafter. While some panel members saw the changes to be more dramatic, the consensus was that chief executives have learned from their predecessors' mistakes and should make fewer reversible errors in the future.

Figure 4: Trend 4

LEGISLATIVE ACTIVITY

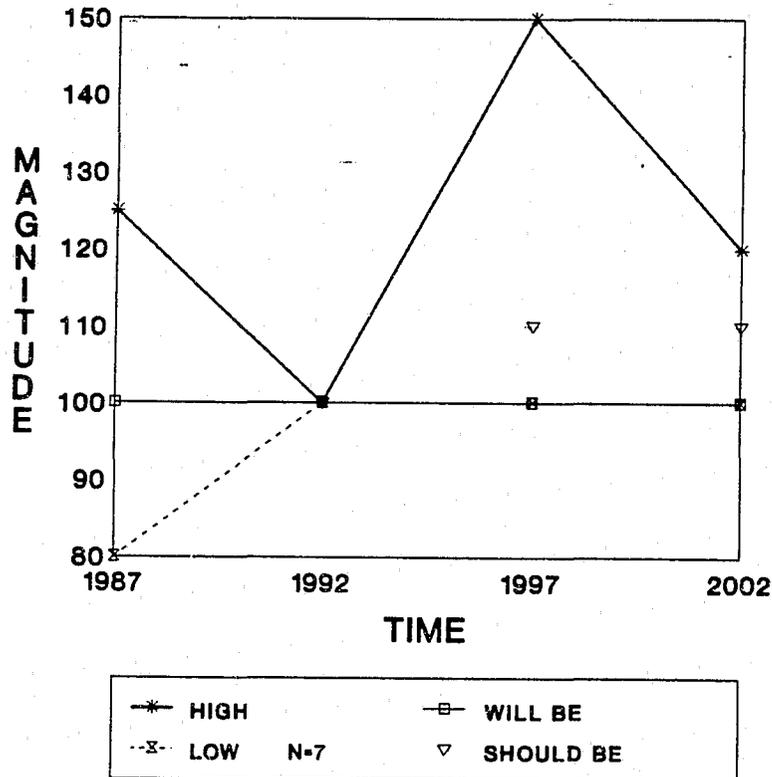


Figure 4 shows that the panel, as reflected by the median, believed that legislative influence is likely to remain constant into the future as it has in the past five years. The discussion by the panel indicated that, even though the legislative activity is constant, it must be considered in a study such as this because of the impact of legislative actions on the discipline process.

Figure 5: Trend 5

PUBLIC EXPECTATION

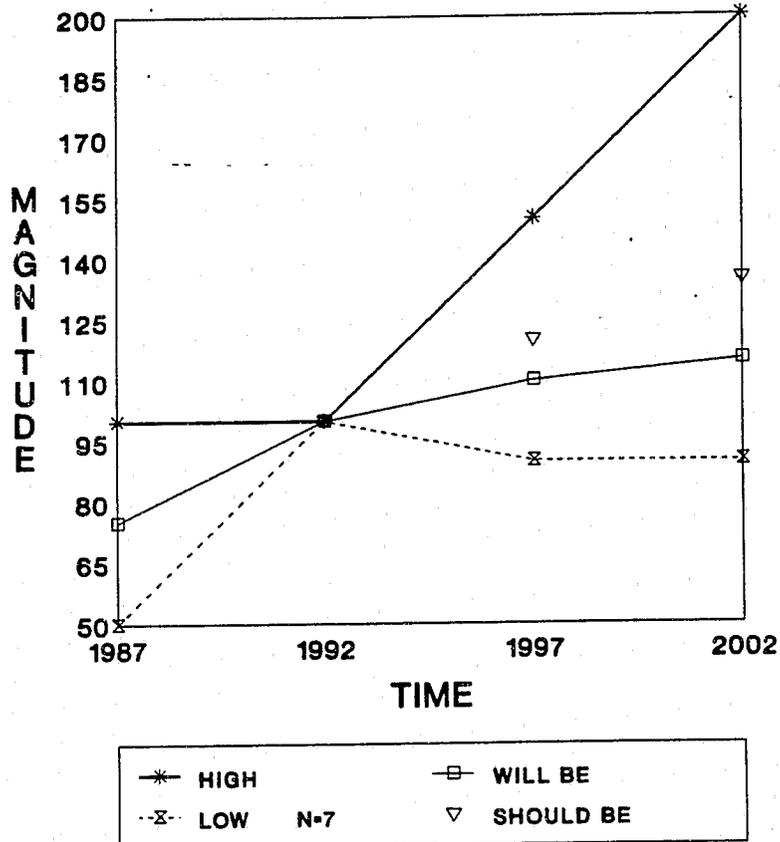


Figure 5 shows the panel members to be central in their views and not widely divergent in range. One panel member believed public expectations would be significantly greater five and ten years in the future but the panel median more closely reflects the other panel members thinking. The overwhelming view of panel members was that the increase of public expectations will slow in the future because law enforcement leaders have been responsive to public expectations of police accountability.

Event Forecasting

Event Forecast

The panel was asked to forecast the five most important events on a percent probability scale. The panel was provided with an "Event Evaluation" form with the explanation that the value of zero indicated that the event was not forecasted to occur and a value of 99% indicated that the event would probably occur. Each panelist was asked to forecast the probability of the event occurring in five years and ten years as well as the number of years before the probability of the event first exceeding zero. The panel was also asked to rate the negative and positive impact on the issue should each event occur.

Table 2 shows the median score for each event.

Table 2: Event Evaluation

| EVENT STATEMENT | Years Unit Probabi ity Fir Exceeds Zero | PROBABILITY | | IMPACT ON THE ISSUE AREA IF IF THE EVENT OCCURRED | |
|-----------------------------------|--|-------------------------------|-------------------------------|--|-------------------|
| | | 5 Years Frm Now (0-100) | 10 Year Frm Now (0-100) | Positiv (0-10) | Negativ (0-10) |
| MAJOR POLICE INCIDENT | 1 | 95 | 95 | 5 | 5 |
| COURT DECISIONS RE: DISCIPLINE | 2 | 90 | 95 | 5 | 5 |
| COLLECTIVE BARGAINING | 0 | 95 | 95 | 1 | 5 |
| NEW LAWS RE: DISCIPLINE | 1 | 90 | 95 | 4 | 5 |
| CITIZEN OVERSIGHT | 3 | 95 | 95 | 2 | 5 |

Panel Median N = 7

Figure 6: Event 1

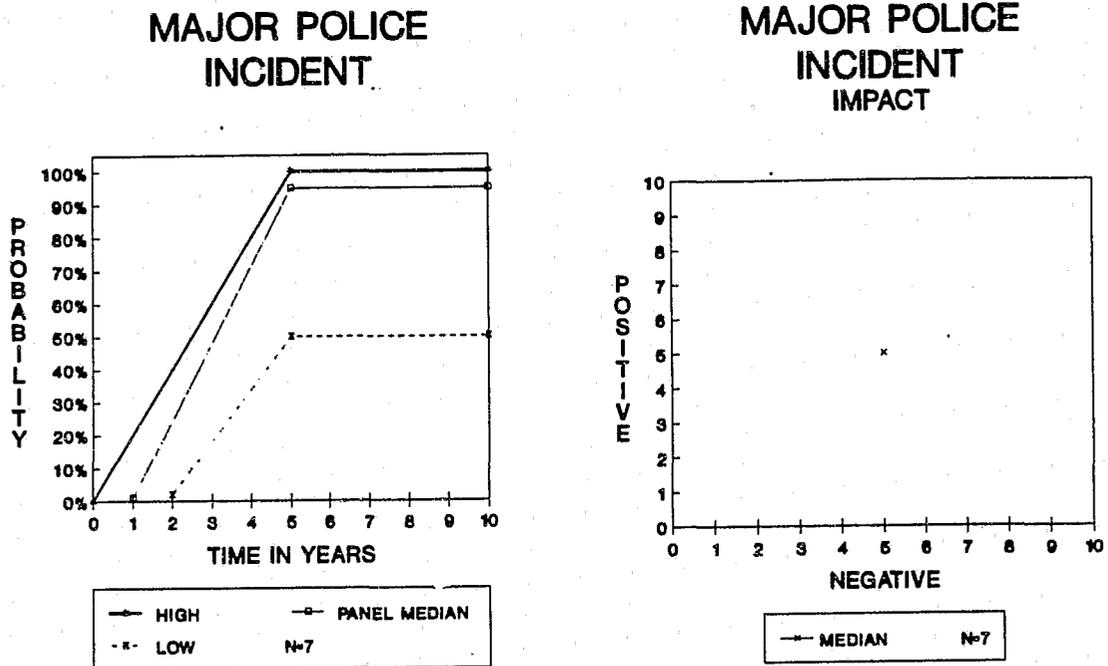


Figure 6 shows the panel to believe a major police incident could occur almost any time but consensus was within one year. The panel believed that such an occurrence would be equally positive or negative because positive changes that typically come out of adversity after the initial recovery from a negative incident.

Figure 7: Event 2

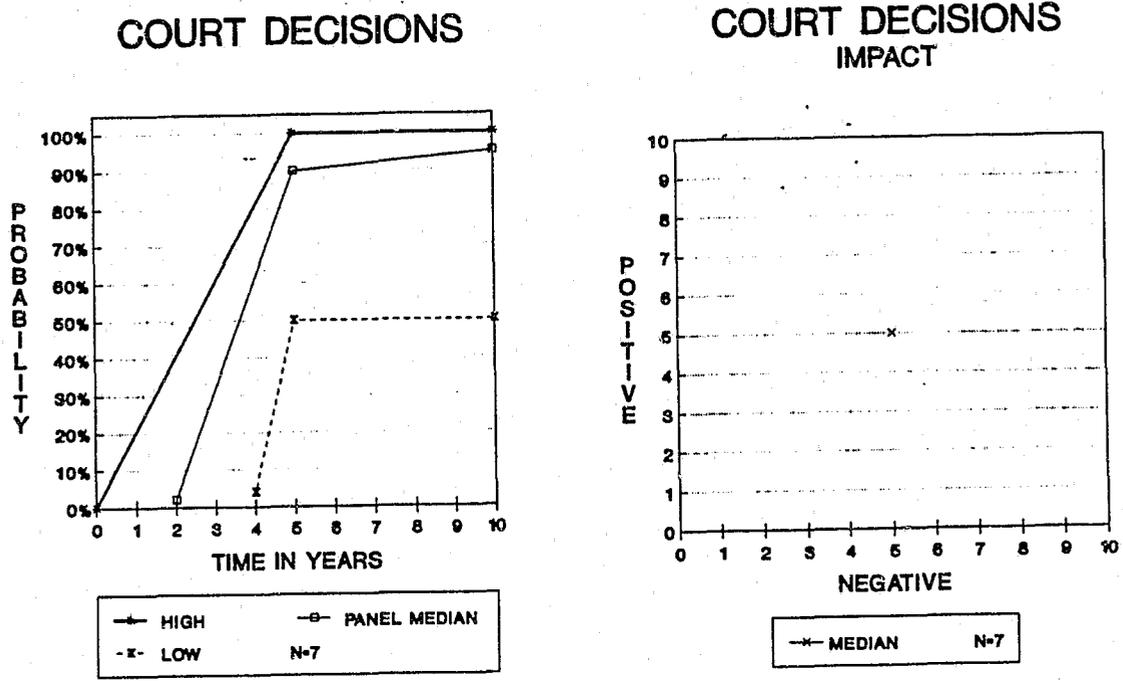


Figure 7 illustrates the panel belief that a court decision impacting the issue would likely occur within two years and most probably in five and ten years. The panel discussion on the issue centered on the likelihood of a decision soon. The impact of the decision could just as likely be positive or negative because of the unpredictability of a court result.

Figure 8: Event 3

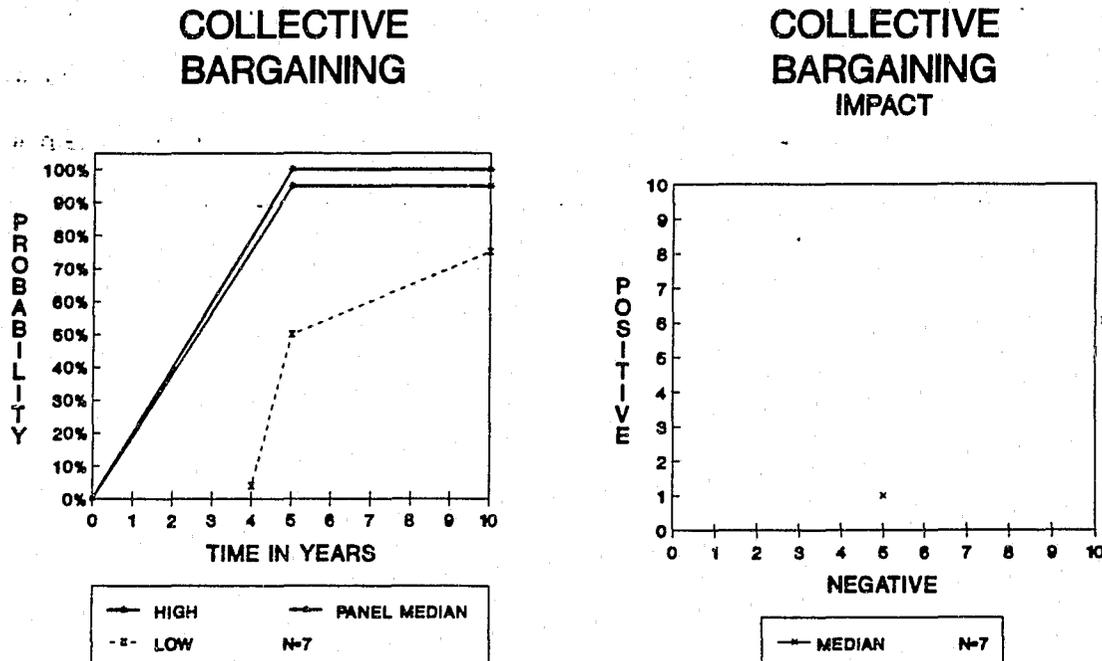


Figure 8 shows that the panel believes that collective bargaining is a most likely event at this time. Four of the seven panel members see it as occurring immediately, and all of them believe the probability will be at least 75% in ten years. The impact is seen by the panel to be more negative than positive with the primary reason being a belief that collective bargaining erodes the discretion of a chief executive.

Figure 9: Event 4

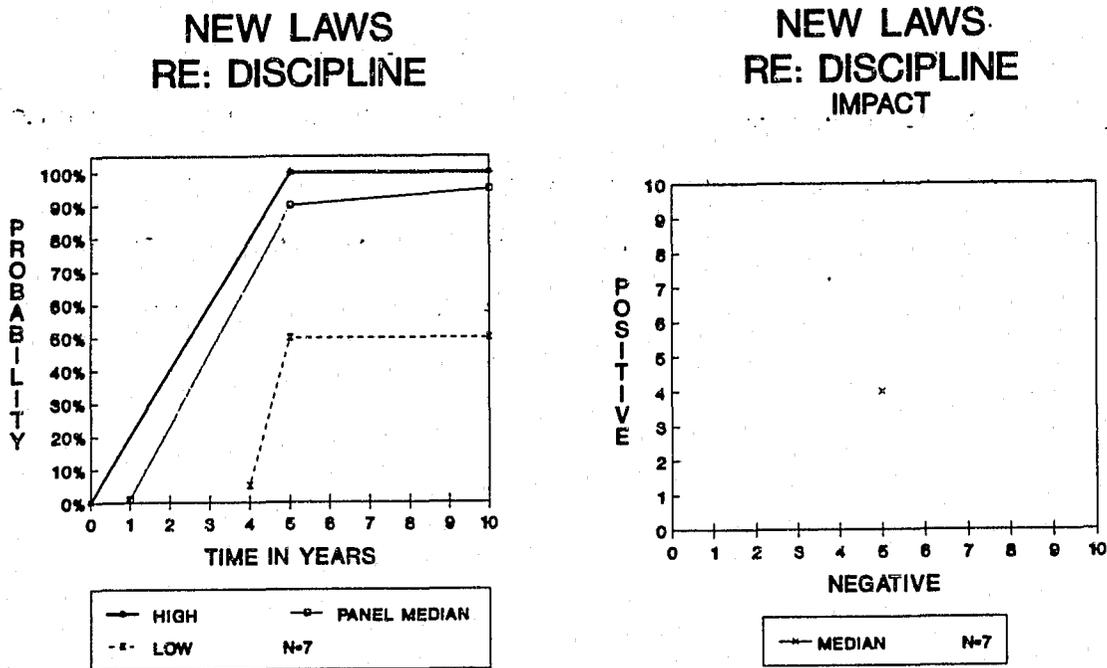


Figure 9 illustrates the panels' conclusion that new laws regarding discipline are likely to be passed within one year and almost a certain probability in ten years. The impact of these laws is seen by the panel to be slightly more negative than positive. The reason for that belief was the panel's view on how high profile police misconduct tends to move a legislative body to act out of emotion not logic.

Figure 10: Event 5

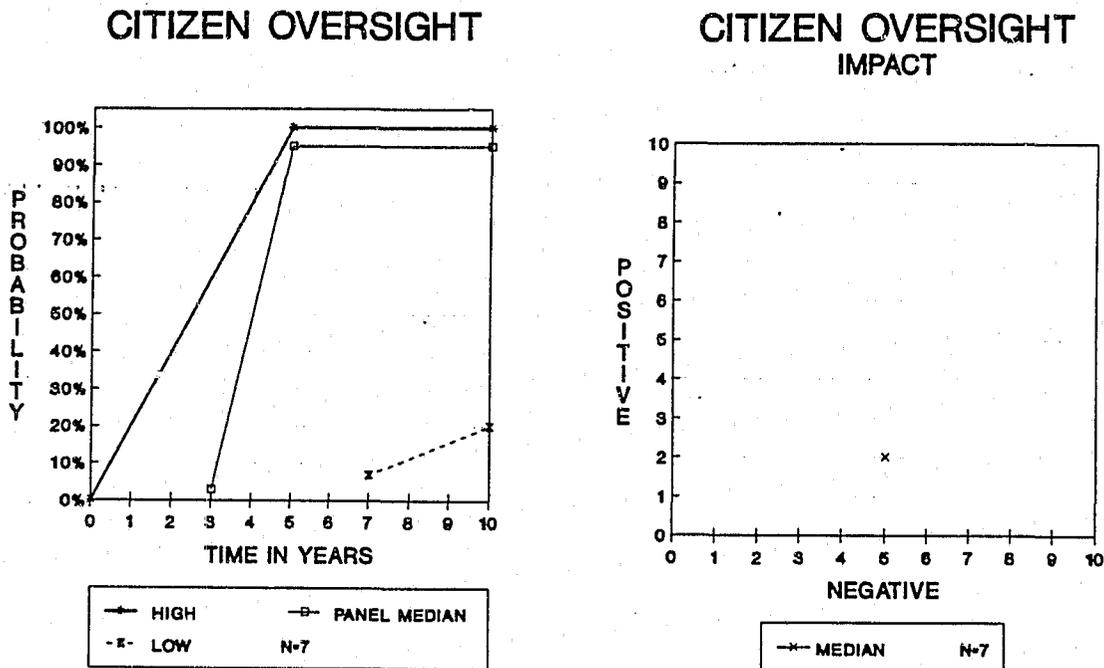


Figure 10 illustrates the panel's consensus that this event's probability of occurring in five and ten years to be very high. The median result shows the likely start time to be three years downline. The figure shows that the high and low probability start time to differ by seven years. The impact of the event if it occurred is seen by the panel to be more negative than positive primarily because of the removal of discretion from the chief executive.

Phase IV

Cross Impact Analysis

Two law enforcement managers joined the author in determining the cross impact of the selected trends and events. They were instructed they would be forecasting the degree of impact in positive and negative percentages that events had on each other. Additionally, they would be forecasting the effects of events on trends in the same manner. These managers would also be forecasting the amount of time in years until the maximum impact occurs for both trends and events (See Table 3, p. 25).

After the managers completed the cross impact evaluation matrix, the results were studied to determine which events and trends offered the most influence on the others. One event stood out as being most influential with impact on all trends and events in four years or less. That was Event 1, a major police incident. The managers believed that, should this event occur, all other events or trends would be affected. They expressed this belief because an event such as "Rodney King" will cause activity in all the identified events and trends with the strongest effects from the public and from the employee organization. The managers saw these two groups' ability to mobilize into action much quicker than more institutional actors such as the courts or the legislature. The other four events impact the trends and events equally. Three trends were impacted by all events; Trend, 2 Union Militancy, Trend 4, Legislative Activity and Trend 5, Public Expectations. The managers believed these trends would be a factor for all the

events because they tend to be more constant over time and transcend the event to greater or lesser degrees. Event 3, Collective Bargaining and Event 4, New Laws Regarding Discipline were impacted by the other four events. The managers believed the employee organization would be responsive to any change which affected its members, while the legislature would provide a statutory response on behalf of any number of constituents, regardless of their belief on how discipline should be managed. Table 3 shows the estimates of the managers in forecasting cross impact.

TABLE 3 - Cross Impact Evaluation

| <u>Maximum Impact (% change +/-)</u> <u>Years to Maximum</u> | | | | | | | | | | |
|---|-----------------|-----------------|-----------------|-----------------|------------------|------------------|------------------|------------------|------------------|--------------------|
| E1 | E2 | E3 | E4 | E5 | T1 | T2 | T3 | T4 | T5 | "IMPACT" TOTALS |
| E1 | $\frac{+10}{4}$ | $\frac{+20}{3}$ | $\frac{-20}{2}$ | $\frac{+80}{1}$ | $\frac{+80}{1}$ | $\frac{+60}{1}$ | $\frac{+20}{4}$ | $\frac{+60}{2}$ | $\frac{-80}{1}$ | E1 <u>9</u> |
| E2 | | $\frac{+20}{3}$ | $\frac{-20}{3}$ | | $\frac{+20}{2}$ | $\frac{+30}{1}$ | $\frac{+100}{2}$ | $\frac{-50}{2}$ | $\frac{+20}{1}$ | E2 <u>7</u> |
| E3 | $\frac{-20}{3}$ | $\frac{+20}{3}$ | $\frac{+20}{3}$ | $\frac{-40}{1}$ | | $\frac{-100}{2}$ | | $\frac{+30}{1}$ | $\frac{+70}{1}$ | E3 <u>7</u> |
| E4 | | $\frac{+50}{2}$ | $\frac{+80}{1}$ | $\frac{+50}{2}$ | | $\frac{+70}{1}$ | $\frac{+30}{4}$ | $\frac{+100}{1}$ | $\frac{+50}{2}$ | E4 <u>7</u> |
| E5 | $\frac{+20}{2}$ | | $\frac{-50}{3}$ | $\frac{+50}{2}$ | $\frac{+100}{1}$ | $\frac{-60}{1}$ | | $\frac{-40}{1}$ | $\frac{+100}{1}$ | E5 <u>7</u> |
| "IMPACTED" TOTALS | | | | | | | | | | |
| E1 | E2 | E3 | E4 | E5 | T1 | T2 | T3 | T4 | T5 | |
| <u>2</u> | <u>3</u> | <u>4</u> | | <u>3</u> | <u>5</u> | <u>3</u> | <u>5</u> | | | |

** Legend (Panel N=2)

E1 Major Police Incident
 E2 Court Decision Discipline
 E3 Collective Bargaining
 E4 New Law - Discipline
 E5 Citizen Oversight

T1 Public Access
 T2 Union Militancy
 T3 Scrutiny by Courts
 T4 Legislative Activity
 T5 Public Expectation

Phase V

Scenarios

Developing scenarios is a way of describing a future state. Scenarios are based data obtained from scanning, research and the nominal group technique panel. Exploratory scenarios describe a surprise-free situation or one most likely to occur. Normative scenarios are used to describe a future which is desirable and attainable. Hypothetical scenarios are used to project a "what if" picture that may be undesirable.

The Ideal Disciplinary Process

THE NORMATIVE (DESIRED/ATTAINABLE) SCENARIO

The year is 2001 and annual report of the disciplinary board for the Bay City Police Department has been released for the previous year. The report shows that the number of officers being disciplined has stayed about the same for the last three years. This trend has been constant since retired Chief of Police Toshio Sakamoto embarked on a program to open the disciplinary process to the public. Chief Sakamoto's two prong approach was to have the State Legislature adopt enabling legislation to permit greater accessibility to citizen complaints by the public and to negotiate the implementation of the change into a memorandum of understanding with the police officers association. It took Chief Sakamoto two years to get the necessary support from his colleagues in the California Chiefs of Police Association as well as the California State Sheriff's Association so that the top management for law enforcement was united on this issue. Chief Sakamoto firmly

believed that in order to meet the public's expectation of professional law enforcement a greater degree of trust was needed. His belief that the more open the process, the greater the public's confidence would be in the process. After the legislation was adopted in 1994 Chief Sakamoto entered into contract negotiations with the police officers association to implement the new openness provisions. Although agreement was reached after six months of negotiations an individual member sued because she believed the new law was an unconstitutional invasion of privacy. The courts denied the claim after a motion for summary judgement was granted saying that the law was constitutional and a proper area for the legislature to act.

The openness provisions in the new contract in 1995 exposed a number of frivolous complaints made by a vexatious organization in the city which heretofore could not have been revealed. Chief Sakamoto believes because of the new legislation and contract provisions that officers are more professional in their encounters with the public. This is especially true for the 18% of the officers who generated 53% of the complaints in 1994. The overall result has been greater trust and support from the public secure in the knowledge that when police officers do make mistakes they will be able to know that the officer was dealt with in a quick, fair and efficient manner.

The Nightmare Continues

THE HYPOTHETICAL (WHAT IF) SCENARIO

It is November in the year 2000. Chief of Police Toshsi Sakamoto has just received notice that the city and he personally are liable for a series of civil rights violations involving actions by his officers stemming from mass arrests at an anti-war rally in 1998 at the federal building. The action was brought by the American Civil Liberties Union on behalf of individuals arrested after repeated attempts by them to find out what action the chief took when excessive force allegations were made. The Chief denied the complainants access to the investigations because in 1995 the police officers association negotiated a provision to their contract with the city to prohibit disclosure of any information from citizen complaints. The individuals that sued the chief and the city spoke at length at their frustration in not being able to find out any information about complaints they had made. A court decision in 1990 made the release of information from citizen complaints a matter of public policy. Because the city chose to limit access to completed investigations of citizen complaints by contract then it also chose to bear the burden of such non-disclosure.

It Could Happen

THE EXPLORATORY (NOMINAL) SCENARIO

In 2002 Victoria Bacon became the first woman to be appointed Chief of Police in Bay City. Chief Bacon has inherited a department steeped in tradition but in slow transition since 1979

when a Consent Decree was entered into to settle a long standing claim of sex and race discrimination.

Chief Bacon was selected to foster greater public confidence in the police department. The department has suffered through a series of events that have lead to call for the Chief of Police to be elected by the people so the police would be accountable to the public.

The lack of trust by the public in the police department to effectively address misconduct allegations is at the root of this movement. Several years before the militant police officers association threatened to engage in job actions such as blue flu or ticket writing slow downs if the public was to gain access to citizen complaint files. This threatened action at a time when the public was concerned with violent street crime lead to severe restrictions to access to citizen complaint files.

In a recent lawsuit on the issue of access to citizen complaint files the court said that the public could be granted access if either the legislature passed a specific law on the matter or an openness provision was included in the collective bargaining agreement.

Chief Bacon has vowed to open the process by a attempting to negotiate a change to the expiring contract. If the police officers association is not willing to cooperate then Chief Bacon is prepared to have a the State Legislature amend existing law to mandate access. Chief Bacon believes that openness to the discipline and complaint process is absolutely critical to regain

public support. She hopes to be able to convince the police officers association that it is better to negotiate the change than to have it imposed as a mandate from the legislature.

Phase VI

Policy Identification and Analysis

From the data and scenarios above, three policies were identified. Their selection was based upon the normative scenario. The policies were identified as ones which would mitigate an undesired future where police chief would no longer have primary control over the police discipline process in his or her agency.

The policies identified were:

- P-1 It is policy of the Bay City Police Department to open the discipline process to public scrutiny and review to the extent permitted by law.
- P-2 The Chief of Police and his senior management team will meet monthly with a citizens committee to insure public confidence in the discipline process for the Bay City Police Department.
- P-3 The Bay City Police Department will support legislation which will remove barriers that currently keep the results of police officer discipline confidential.

Policy Impact

The Policy statements were compared against the normative scenario, selected trends and events utilizing a cross impact matrix. The results are shown in Table 4 on the following page.

TABLE 4 - Cross Impact Analysis of Policies

| <u>Maximum Impact (% change +/-)</u> Years of Maximum | | | | | | | |
|--|-----|------|-----|------|-----|------|------|
| | E3 | E4 | E5 | T1 | T2 | T4 | T5 |
| P1 | +70 | 0 | +80 | +100 | +60 | + 60 | +100 |
| P2 | +20 | 0 | +80 | +100 | +50 | 0 | +100 |
| P3 | 0 | +100 | +60 | + 60 | 0 | +100 | + 60 |

Median Impact (N=3)

** Legend

- E3 Collective Bargaining
- E4 New Law regarding Discipline
- E5 Citizen Oversight
- T1 Public Access
- T2 Union Militancy
- T4 Legislative Activity
- T5 Public Expectation
- P1 Open Discipline Process
- P2 Monthly Meetings with Public
- P3 Removal of Legislative Barriers

The most powerfull policy, as depicted on Table 4, is P-1 because it impacts all four trends and two events. The remaining policies have a significant and equal impact on the identified trends and events. The impact of all three polices is positive and demonstrates what proactive policy formulation can have for a futures minded organization.

A forecast of the identified trends and events showed what impact outside forces may have on the police discipline process in the year 2002. As the Chief of Police of the Bay City Police Department works at managing a contemporary police force, he or she is faced with insuring that the due process rights of employees are safeguarded. The Chief must not exceed his or her authority under relevant law. He or she must also retain the confidence of the people being served by ensuring that, when officers deviate from department and community norms, appropriate action will be taken to correct such behavior.

A contemporary or futures minded chief must be able to strike a balance among the identified outside forces if he or she is to be successful in their agency. Most important is achieving the support of the public because a police agency that does not have public support will be a department apart from the people instead of being part of the people.

STRATEGIC MANAGEMENT

As law enforcement executives prepare to manage with a futures perspective, the point of departure is the development of a mission statement and a strategic plan that makes it possible to reach desired future goals. How well a law enforcement leader manages discipline may well decide the success of the agency and how the public accepts the activities of its police department.

MISSION STATEMENT

A strategic plan is essential as a leader looks to the future and makes current decisions that are consistent with the direction in which the leader intends to take the organization. In the development of a strategic plan, the overall mission of the agency must be kept in mind otherwise there is a real possibility that the strategic plan for the future may conflict with the mission of the agency.

Macro Mission Statement

The Mission Statement of the Bay City Police Department reads as follows:

"The Bay City Police Department is dedicated to the reduction of violent street crime, to the removal of opportunities for crime to occur and to instill a feeling of safety both for the public being served and for the employees delivering those services."

Micro Mission Statement

The micro mission relating to the current study is as follows:

"The goal of the current study is to provide a plan designed to foster public confidence in the disciplinary process, to render that process fair and acceptable to department employees and to ensure that relevant statutes and supporting case laws will be followed by the department."

SITUATIONAL/WOTS-UP ANALYSIS

The assessment of a situation in which a proposed change is to occur is crucial to the success of the planning process. A panel of four persons from the Bay City Police Department conducted a two step situational analysis designed to produce the necessary data. These people were Captain Gregory Winter, Captain Michael Hebel, Lieutenant Thomas Donahoe and Sgt. Marlene Ottone. These managers were selected because of their knowledge of the department. The first step was to examine the external environment and the internal organization. The second step was a procedure used to identify stakeholders and their assumptions.

The panel made two separate assessments. The first examined external factors (opportunities/threats) that could impact the department's ability to respond to the strategic issues identified by the group. An "opportunity" is a situation that is favorable to the proposed plan while a "threat" is a situation that is unfavorable. The second assessment was a capability assessment analysis of the department's internal strengths and weaknesses. A "strength" is a resource or capability the department can use to reach its objective. A "weakness" is a limitation or defect in the organization that would impede the attainment of its objective.

Many issues identified by the advisory group described above can be viewed either as an opportunity or as a threat. The issue of opening police disciplinary procedures to civilian review is highly political, both internally and externally. Preparations made in the transition period will be crucial in the determination

of whether a given element in the final plan is seen as opportunity or threat.

In performing the following analysis, the review panel examined each trend and event previously identified. It decided the extent to which each could be seen either as an opportunity or a threat for a law enforcement agency.

PUBLIC ACCESS TO POLICY FORMULATION: Involvement by a responsible public seeking access to policy formulation should not be viewed as a threat, it is an opportunity to inform the public rather than alienating them by secrecy and silence. Such involvement should provide checks and balances to maintain professionalism within the police department.

UNION MILITANCY: The use of police union activity as an opportunity is greatest when the agency and the union operate in a spirit of trust and open communication. Union militancy, on the other hand, would be a threat to an agency that adopts a paternalistic and/or autocratic approach to employer/employee relations. It also should be noted that, without adequate preparation, the police union might well take a negative view of the plan. This, again, is an issue that must be addressed in transition management.

SCRUTINY BY THE COURTS: An uninformed chief of police who chooses to make decisions without regard to existing law could be threatened by court review. An innovative and well informed chief can use knowledge of law and its historic applications to advance new programs that would be affirmed by court review.

LEGISLATIVE ACTIVITY: An agency that adopts an isolationist approach would view legislative activities as an intrusion into its world, and therefore a threat. A progressive and open chief would look to the legislature to create opportunities to implement legislation to overcome procedures that are currently prohibited.

CHANGING PUBLIC EXPECTATIONS: Mobilizing the public whose expectations are changing is a real opportunity to obtain support for programs. Viewing changing public expectations as "meddling" and unwarranted invasion into management's role could spell disaster for an agency when it needs public support. It should be noted that the greatest instability is likely to occur when change is eminent. Careful planning during the transition phase of the project will, therefore, be a necessity.

MAJOR POLICE EVENT: A Rodney King-type event can be threatening to an agency that takes a defensive posture and sees itself as under attack. Such events also can be the catalyst for needed change and an opportunity to implement innovations with political support that might otherwise not be available. Again, careful handling is necessary if the department is to view such an event as an opportunity.

COURT DECISIONS AFFECTING DISCIPLINE: As with a major police incident, an agency that is isolationist and nonresponsive will view an adverse court decision as an invasion by judges into police executive responsibility. An adverse court decision, however, can be an opportunity to review the entire discipline process through critical self-analysis and creative/problem solving.

COLLECTIVE BARGAINING WITH ARBITRATION: A chief of police who faces collective bargaining with binding interest arbitration can seize the initiative and enhance management's prerogatives to improve agency operations. The collective bargaining process can be a real threat to those agency heads who ignore or abdicate their responsibility.

NEW LAWS: New laws that require changes in existing operating rules and procedures can be very threatening unless they are used as opportunities to reach out to the public and/or to employee organizations to develop in partnership agreements and achieve mandated changes with minimal disruption.

CITIZEN OVERSIGHT OF COMPLAINTS AND DISCIPLINE: The implementation of a civilian review process can threaten the power and influence of an agency chief by questioning the manner in which discipline is administered. Civilian review can, however provide a rare opportunity for the public to see the discipline process at first hand and to affirm an agency head's decisions. Depending on the chief's attitude, then, civilian oversight can either be an opportunity or a threat

INTERNAL CAPABILITY ANALYSIS

INTERNAL WEAKNESS: Bay City has often been described as an "East Coast City on the West Coast." This description and resulting historic reputation also fits the Bay City Police Department (BCPD), since it is based on a traditional approach to law enforcement. This traditionalistic approach is evidenced by the

delay in introduction of new technology until long after most other agencies in the region have begun to take advantage of it. The department has a long history of non-involvement in statewide or regional programs because "Bay City is the City that knows how." The department, because of its size, has been able to use either people and/or money to solve problems, while other agencies have had to develop alternative strategies.

The fiscal condition of the city has resulted in a reduction in staffing because there has been no real increase in the department's budget after adjustments for inflation. There is no hope for change in the fiscal health of the city in the near future. Therefore, the existing officers must continue to do more with less.

INTERNAL STRENGTHS: The BCPD is a big city police department that attracts officer-applicants because of its glamorous portrayal in movies and its standing as an internationally desirable place to visit. The department has a long history of community involvement that began with Neighborhood Watch in the early 1970s', an involvement that culminated in an innovative Community Oriented Policing Program in the 1990s'. Because of public involvement in policy formation, the domestic violence procedures of the BCPD have become a model for other police departments statewide. More recently, the BCPD's Hate Crimes enforcement activities have also served as a model elsewhere.

The BCPD has a chief who is a recognized leader in creating opportunities for growth and diversity. He has led the effort to

develop the first "Mission Statement," "Value Statement" and a "Management Rotation Program" in the history of the department. He has placed a high priority on reducing violent street crimes, with the result that Bay City is the only major city in California that showed an overall reduction in crime in the state in 1991.

The strengths of the department as discussed above demonstrate that, recently, it has broken some traditions that have restrained its progress in the past. The Chief's management rotation plan and improvements in training opportunities are examples of the BCPD's changing image in the eyes of California law enforcement. The chief is challenging his command staff and all of his managers to step forward and create change in the department. He is doing this so that the department can become an agency that is truly responsive to community needs and concerns. The threat of reduced financial support is accepted as an opportunity to provide the best service possible by carefully examining the budget and reordering priorities as required. Additionally, the BCPD is striving to improve the overall quality of the force with a career development program and training opportunities.

STAKEHOLDER ANALYSIS

Following the completion of the WOTS-UP analysis, the panel of managers proceeded to the final phase of situational analysis. The process is used to identify stakeholders related to the issue.

Stakeholders are individuals, groups or organizations who: 1. Impact what is planned; or 2. Are impacted by the projected plan;

or 3. Care about the changes that are envisioned. The identified stakeholders have an interest in the success or failure of BCPD. It is possible to make assumptions about the interests of most stakeholders. The interests of some in this group, however, are less obvious. These stakeholders are called snaildarters because they can stop or impede a project.

The assumptions regarding the stakeholders are based on basic, deep rooted, beliefs that individuals or groups have about the world. Following is a list of stakeholders and the assumptions made about them by the panel. A matrix that maps these stakeholder assumptions will be found in a chart in Appendix G that depicts the importance and projected certainty of the assumptions assigned to stakeholders as they relate to the issue question.

A. DISTRICT ATTORNEY/US ATTORNEY

1. Tend to defer to the administrative process
2. Political belief of office holder guides decisions

B. VICTIM/WITNESS

1. Subjective and emotional view of incident
2. Skeptical of the discipline process

C. NEWS ORGANIZATIONS

1. Organizational policy/philosophy reflected in stories
2. Voracious hunger for sensational information

D. EMPLOYEE ORGANIZATIONS

1. Skeptical of fairness of the discipline process
2. Subjective view of incidents involving employees
3. Political belief in organization leadership guides decision making

E. EXECUTIVE BRANCH OF CITY (MAYOR/POLICE COMMISSION)

1. Damage control of incident
2. Belief they can generate real change

F. LOCAL LEGISLATIVE BODY (CITY COUNCIL)

1. Political considerations drive actions
2. Fiscal concerns are paramount

G. STATE LEGISLATURE

1. Political considerations for future elections
2. Unclear of concepts of how state laws impact police discipline

H. INTEREST GROUPS (ACLU, NLG, CAUV, BCBA)

1. Narrow and focused perspective
2. Belief that work is in public interest seeking to open the process

I. NEIGHBORHOOD GROUP/BUSINESS ASSOCIATIONS

1. Narrow focus (primarily safety)
2. Conflicting group priorities

J. JUDICIARY

1. Reactive to issues
2. Tends to defer to administrative remedies

K. OFFICE OF CITIZENS COMPLAINTS

1. Fact finder of allegations of misconduct
2. See themselves as outsiders to the process/system

L. CITY ATTORNEY/RISK MANAGER

1. Damage control
2. Does not take an active role in discipline

The panel identified the State Legislature and Victim/Witness as snaildarters and assigned assumptions to them because of their potential to raise unforeseen issues.

MODIFIED POLICY DELPHI

A modified Policy Dephi is a process designed to generate, analyze and select strategic policy alternatives. A panel of nine individuals (Appendix H) participated in the process (Appendix I) to formulate ten potential strategies. Each potential strategy alternative was rated on its feasibility, desirability, cost and stakeholder support. Following is the list of the potential strategies.

1. Elimination of the Police Review Board and the Police Commission

The elimination of the PRB and the Police Commission would make the Chief of Police the policy maker for the department and answerable to the Mayor alone. As such, the Chief of Police would be solely responsible for all facets of departmental operations.

2. Total Civilian Control

The department would be modeled after the United States Military where a civilian is Secretary of Defense who makes final decision and sets policy for the armed forces. The appointment would come from the Mayor with confirmation by the City Council.

3. State Board of Police Quality Assurance (BPQA)

The State would adopt a process to review serious allegations of police misconduct as is done in the medical and legal professions. The BPQA would neutralize political input into the discipline process because the board would be appointed under a statewide process and not subject to local political influence.

4. Arbitration of Discipline

The BCPD would adopt a system of arbitration of discipline. The arbitrator will be the trier of fact and the decision would be final and binding on all parties.

5. Police Review Board with Discipline Authority

The Police Review Board would not only investigate allegations of misconduct, but also would be able to impose punitive action after a due process hearing. This action would instill greater

confidence in the complaint process and would prohibit the Chief of Police from blocking disciplinary action.

6. At Will Employment

All officers of the BCPD would no longer have civil service protection but instead would be considered "At Will" employees. They would be treated as other professionals (i.e., doctors, lawyers etc.) in city service.

7. District Election of Police Commission

An election of police commissioners by district would replace the existing commission appointed by the Mayor.

8. Retention of Existing Discipline System

After examining several alternatives to the existing system the BCPD would redesign the existing system of discipline. The process has a long history. Instead of replacing the current system, an effort would be made to make minor modifications, to remove those parts no longer relevant and replace them with more progressive components.

9. Trial Board with Public Participation

The BCPD would implement a new discipline process whereby an officer facing the most serious charges would face a trial board of three members. One member of this board would have the rank of Captain, one member would be of the same rank as the accused and one would be a public member. The decision of this board with recommendations for action would be sent to the Police Commission

to accept, increase or decrease and the commission's decision would be final.

10. Increase Chief's Ability to Suspend

The Chief of Police would have authority to increase the suspension of officers from ten to thirty days. Any suspension of more than ten days could be appealed to the Police Commission. Decisions regarding suspensions of ten days or less would be delegated by the Chief to Captains, with appeal to the Chief.

The panel identified three strategies for closer analysis with a goal to recommend one strategy for implementation. These three strategies are reviewed below, along with discussion of the views of the panel.

Arbitration of Discipline: The members of the panel from labor and from the department rated this strategy very highly because of a belief that arbitration is neutral and less political. The panel members representing the public's view rated it low because the process is not open for public participation and oversight. The main objection to arbitration voiced by the public member was that one person would make findings about discipline without being accountable for incorrect or unpopular decisions. On the other hand the neutrality of the arbitrator was what the union and department members found attractive.

- PROS: * Increased fairness perceived by officers
* Swift and efficient process
* De-politicizes the process
- CONS: * Increased cost for discipline process
* Time consuming
* Reduced control by department management
* Reduced confidence by the public

Trial Board With Public Participation: The panel members were intrigued by this novel approach. The public members were receptive to the concept, while the department and union representatives were hesitant. The hesitancy by the latter panel members arose from involvement by a public member unfamiliar with policy issues. This hesitancy was balanced against the portions of the proposal that provided for a peer of the accused on the board. This Trial Board was seen as being intended for use only for the most serious cases; they felt that lesser discipline could be adjudicated in another forum by the Chief.

- PROS: * Increase in public confidence
* Open the discipline process
* Broad base for evaluation of evidence
* Fairness for complainant and officers
- CONS: * Increase time for resolution
* Increase in cost
* Viewed with suspicion by officers
* Sensationalized by the media

Increase of the Chief's Ability to Suspend: The panel members recognized that, although this policy might be desirable, it was not likely unless other changes were made in the discipline process. The public members as well as the union representative would accept a change such as this only if it was a part of an overall revision of the entire discipline process. Part of the increase in the Chief's authority to suspend would be the ability to delegate lesser levels of discipline to the those holding the rank of Captain. This sharing of authority by the Chief is untested and without precedence in the department.

- PROS: * Speed up the process for minor discipline
* Involves top level command staff
* Increased support by officers
* Decreased costs
- CONS: * Viewed with skepticism by the public
* Potential for abuse
* Little or no public input

The implementation of any of these three strategies would require an amendment to the Charter for Bay City. Police officer discipline is part of the Charter and can only be changed by a vote of the people during a city-wide election.

RECOMMENDED STRATEGY

The panel was not able to reach consensus on any one strategy because each addressed only a portion of police officer discipline while leaving other portions unchanged. To absorb the impact of the influences of the union and the public and permitting the Chief to manage the department, a recommended strategy that combines key elements of two of the strategies was developed. The trial board with public participation and increasing the chief's ability to suspend was used to overhaul the entire discipline process. The recommended strategy gains broad-based stakeholder support and replaces an outdated process with a contemporary one.

The recommended strategy is to amend the Charter for police officer discipline with language that would enable the implementation of rules increasing the Chief's authority to discipline and rules to govern the trial board. The change is as follows:

The Chief of Police has the authority to suspend members of the police department for not more than thirty days. Additionally, the Chief may delegate his authority to suspend to Captains of Police for periods not to exceed ten days. The decision of the Captain is appealable to the Chief of Police. The Police Trial Board will have authority to terminate, suspend for a period not to exceed ninety days per charge, demote, reprimand or exonerate. The Police Trial Board will be composed of a Captain of Police, a member of the department holding the same rank as the accused and a member of the public. The Board will meet as needed to hear evidence on allegations of misconduct and make its findings to the Police Commission.

The recommended strategy will provide an accelerated process for cases of minor discipline and provide a blend of peer and public involvement for the most serious matters. This innovative approach of empowering lower level command staff, peer participation and public input will set the trend for other departments. Other departments may possess different components of this plan but none have all of them. Participation by the public embraces community policing at all levels, because the public will be able to be involved in the setting of standards for conduct based on the cases before the Trial Board. Implementing a balanced plan that will meet with approval from the union and the public is the goal of this strategy. The panel believed that this strategy is achievable.

STRATEGY IMPLEMENTATION

The implementation of the proposed plan will require a number of actions. Some action steps are general in nature while others are specific because of the requirement to amend the local charter.

The Chief of Police has overall responsibility and accountability for planning and implementation of the policy. He must acknowledge the importance of the issue, make a commitment to lead the project and be willing to commit the required resources. The Chief will need to use the high profile of his office to persuade the union and identified interest groups either to gain their support or at the very least to obtain assurances they will not oppose the plan.

The commitment of the staff resources to draft enabling legislation and the supportive implementation mechanism is crucial for the success of the strategy. Much of the plan involves changing the mind set that produced a process that has been in place since the 1930s'.

Phase I - Enabling Change to Occur

Time line - Can begin immediately and can be completed in three months.

This phase includes:

- * Get opinion from legal staff identifying statutory amendments required
- * Draft amendment to City Charter to enable plan implementation
- * Review existing procedures to find those in need of revision
- * Prepare outline of proposed strategy for presentation to stakeholders
- * Prepare schedule for plan implementation
- * Approval by management of preliminary recommendations

Phase II - Preparing for Change

Time line - Can begin in three months and can be completed in one year.

This phase includes:

- * Selection of a transition project manager by the chief of police
- * Identification of resources within the department to develop procedural changes
- * The chief of police and transition project manager to meet with recognized employee organizations to convey need for change
- * The chief of police and transition project manager to meet with identified interest groups to gather public support for legislative changes
- * The chief of police and transition project manager to meet with selected public officials to get their support for legislative change
- * Develop budget for proposed changes defining cost increases and capturing of cost savings

Phase III - Implementation Phase

Time line - Will begin in one year and take up to two years for full implementation.

This final phase includes:

- * Adoption by voters of change in City Charter
- * Enactment of any change required of State Law
- * Promulgation of required procedural rules to structure the process for both the Chief's level hearings as well as the Trial Board rules
- * Establish firm start date for new procedure and make provisions for discipline cases that occur during transition
- * Training for Captains on their new role in discipline process
- * Establishment of a record retrieval system to capture data for post implementation evaluation
- * Prepare public information program to inform the public of the new policy
- * Prepare lesson plan for basic and advanced officer training to instruct officers of the plan features

NEGOTIATING ACCEPTANCE

Agency Position: The lynch pin to achieve the implementation of the proposed strategy is having the voters approve a charter amendment to implement the plan. For real change it is critical to increase the Chief's authority to suspend from ten to thirty days. To win support from the Peace Officers Association and from focused interest groups the plan has to include facets of key positions from each of them. The part of the plan where the Chief has room to move is in the area of openness of the process. The Chief's priority is achievement of flexibility in his prerogatives of discipline and to empower his top level commanders to make them part of the process. The empowerment of his command staff is intended to reap benefits for years to come, because it provides Captains with authority they never had before.

The Chief understands the union and the public have different issues that are important to them and is willing to be flexible on those issues. To gain their support the Chief may be flexible on the authority of his Captains to hear discipline cases.

STAKEHOLDER POSITIONS: Some stakeholders were identified and their positions were assessed. The employee organization as represented by the BCPOA has a goal of removing perceived political considerations from the disciplinary process. While it believes the use of an independent arbitrator would achieve that result, peer involvement provides a viable alternative to arbitration.

Interest groups such as the ACLU and Bar Association are driven to open the police discipline process to public scrutiny. They would support the increase in the Chief's authority but would be leery of the delegation of authority to suspend by the Chief. They would enthusiastically embrace the Police Trial Board because of direct public involvement.

The Police Review Board's (PRB) primary concern is maintaining credibility with the public so it has confidence in the PRB investigations. To a lesser degree the PRB wants police officer support in its work. The PRB is likely to be opposed to a plan that suggests confidentiality and support those of openness. On balance though, if the disciplinary process does not interfere with its investigations it would be neutral or support the plan.

The executive side of city government, as personified by the Mayor and his Police Commission, would oppose a plan that they perceive will reduce their authority. If the Police Commission can make the final decision on serious cases and receive quarterly reports from the Chief on lesser cases it and the Mayor could be mobilized to support the plan.

Neighborhood groups and Merchant Association groups can influence a large body of voters on a Charter Amendment. These groups would likely be neutral on the plan unless the Police Officers Association, interest groups or city executives influence them to move off that position. They would likely lack sophistication to make informed decisions and they would rely on trusted individuals from the other stakeholder categories.

Clearly, it would be best to mobilize them for support or at least have them remain neutral. Having them oppose the plan could cause the failure of the Charter Amendment to pass.

All of the best plans and strategies for passage of the charter amendment could fail if an unanticipated stakeholder should surface. Such a snaildarter could be a victim to an incident of alleged police misconduct stepping forward and causing the plans to be in trouble because of the emotion a victim can bring to an issue.

NEGOTIATING STRATEGY: The previous discussion shows that a proactive effort by a progressive Chief who believes in the preferred strategy and commits available resources can gather the necessary support to win approval. Dr. Edward C. Caprielian teaches a strategy the Chief could employ. Dr. Caprielian advocates a three phase approach using rationality, psychology and power. Reason brings logic to the debate and allows the use of facts to persuade. Psychology prizes openness, places a high value on trust to gain cooperation and resolves conflict through problem solving with some emphasis on informal negotiations. Power provides for use of a person's charisma to gain cooperation and if necessary the resolution of conflict by use of sanctions. If support cannot be gained by logic then using of Dr. Caprielian's outline can be used to have stakeholders remain neutral and not oppose the plan.

Roger Fisher and William Ury in their book "Getting To Yes" say that interests define the problem.¹⁹ They say, "The basic problem in negotiations lies in not conflicting positions, but in

the conflict between each sides needs, desires, concerns and fears."

It is critical for the Chief of Police to understand what Fisher and Ury point out when dealing with the stakeholders. The divergent interests of the stakeholders could be satisfied in part by judicious use of the power of the Chief's office and with his personal powers of persuasion to provide a better opportunity for the plan to succeed.

TRANSITION MANAGEMENT

A Modified Policy Dephi panel considered ten alternative strategies during its deliberation. In an attempt to reach consensus on one strategy the panel had to consider the existing framework under which discipline in the Bay City Police Department currently operates. The panel found that the Charter for the Bay City provides the authority for discipline in the police department.

Therefore the panel was not able to reach consensus on one strategy because each addressed only a portion of police officer discipline while leaving other portions unchanged in the Charter. To absorb the impact of the outside influences of the union and the public, while still permitting the Chief to manage the department when allegations of misconduct against officers are sustained, the recommended strategy is a synthesis of key elements of two of the

strategies. The panel used this approach to overhaul the entire process. The recommended strategy is intended to gain a broad based stakeholder support and replace an outdated process with a contemporary one before confidence in the department's discipline process is lost.

The strategy identified in the strategic management portion of the paper (page 47) is achievable if suitable transition management process can be created. The strategy will challenge a future minded chief of police to move the organization in a planned process rather than be reactive to outside forces which may not be subject to cooperation at a time when change occurs. This strategy will enable the chief of police to negotiate a change by influencing outside forces such as the public or the employee organization in such a way as to create a discipline process that continues to vest the Chief with the authority the Chief believes he or she needs while making partners out of two potential antagonists.

A successful effort by the Chief of Police will consolidate his or her authority in such a way as to provide the necessary tools to administer discipline while neutralizing potential opposition: This kind of effort is worthwhile and the energy expended to achieve the result will reap benefits far into the future.

COMMITMENT STRATEGY

The first phase of a transition management plan is to develop a commitment strategy. This involves a series of action steps to obtain support of key stakeholders who are critical to the change effort. From this group of stakeholders it is necessary to identify the critical mass. This critical mass can be identified as those individuals or groups whose active commitment is necessary to provide the energy for change to occur. The following five critical mass actors were identified by this researcher and a manager in the department:

- o Chief of Police
- o City Council
- o Mayor
- o President, Police Officers Association
- o Director, Police Review Board

Once the critical mass has been identified, it is necessary to determine the commitment to the proposed change. Table 5 illustrates each actors' current level of commitment and makes a projection of the minimum level of commitment needed to achieve plan success. Table 5 is followed by a short summary of each actor and the possible intervention strategies that can be used to gain the needed commitment for success of the transition plan.

TABLE 5

Critical Mass Commitment Chart

| ACTORS IN CRITICAL MASS | BLOCK CHANGE | LET CHANGE HAPPEN | HELP CHANGE HAPPEN | MAKE CHANGE HAPPEN |
|---------------------------------------|--------------|-------------------|--------------------|--------------------|
| Chief of Police | | | X --- | ---> O |
| President, Police Officer Association | X --- | ----- | ---> O | |
| City Council | | X --- | ----- | ---> O |
| Mayor | | | XO | |
| Director, Police Review Board | X --- | ----- | ---> O | |

X = Present Commitment O = Needed Commitment

Chief of Police: The Chief of Police is responsible for the good order, efficiency and discipline of the police department. As such, he is responsible for decisions for the venue and level of discipline in any given case. He was recently appointed to his current position but has extensive executive experience.

Although the Chief is prepared to help this change happen, it will be necessary that he champion this effort and his commitment must move to the "Make Things Happen" category. His job responsibilities will not allow him to manage the change personally, therefore he should appoint a project manager to accomplish the necessary tasks. Though the Chief will not personally manage the change, the change would have virtually no chance of success without his personal commitment and support. The change in commitment level can best be accomplished by demonstrating to the Chief the benefits and opportunities of the plan vs. the muddling

along under the current disciplinary system that was born in the 1930s' and has remained fundamentally unchanged since then.

President, Police Officers Association (POA): The POA will view this change strategy as a politicization of the discipline process by the department, a "knee jerk" reaction to public pressure and a threat to the officers' job security. The Chief will be labeled a "politician" interested in consolidating power in his office and enhancing his personal image and career in the eyes of the public at the expense of individual officers. The assumption assigned to the POA place it in the "Block Change" category. A commitment of simply allowing change to happen would likely lead to success of this plan. The support and involvement of the POA is critical to the success of the plan; therefore it is necessary that the POA commitment move to the "Help Change Happen" category. The transition in the commitment level for the POA can best be accomplished by moving slowly and providing up-to-date and accurate information to answers of questions raised by the President of the POA. Additionally, it must be pointed out that the POA will have a shared role in the process, thereby giving them more input into each disciplinary matter. The POA President must have his awareness level raised so he can see how this change benefits his membership.

City Council: The City Council will need to place a proposed charter amendment on the ballot so it can be considered by the voters in an upcoming election. The assumption assigned to the Council is "Let Change Happen." The commitment level of the

Council must change to "Make Things Happen" because their political support of a proposed change will influence a significant number of voters. To move the Council's commitment level the effort should include the benefits of opening up the process and support of broad based interest groups (ie. POA, OCC, ACLU etc.). A council member must be identified to sponsor a charter amendment and be its champion with the council.

Mayor: If this change is to be successful, the political process must work. The Mayor as chief executive of the City, has significant influence over the success or failure of ballot measures. The Chief of Police was selected by the Mayor so they are likely to share the same views as to the way discipline should be administered. Because of the relationship between the Mayor and the Chief, the Mayor is assigned a level of commitment of "Help Change Happen" and this level is believed to be sufficient to accomplish the change.

Director, Police Review Board (PRB): The PRB is a civilian agency that investigates allegations of police misconduct brought by the public against police officers on duty or when off-duty and acting as police officers. The ACLU and other like groups seek to enhance the image and position of the PRB. For plan success the confidence level of the public in the work of the PRB must be as high as possible. Because of the role of the PRB, and the influence it could exert in a negative direction, it is assigned the category of "Block Change." The Chief and the political leadership of the City must demonstrate to the Director of the PRB that the proposed

change will not impede its mission but instead will enhance the spirit of openness. When the Director sees that the proposed plan can enhance the PRB effort to acquire public confidence then it will move to the "Help Change Happen" category.

TRANSITION MANAGEMENT STRUCTURE

Successful organizational change does not just happen. To be successful, change must be managed carefully. In general, this management involves three distinct and separate phases; 1. pre-change state, 2. transition state and 3. post-change or future state. A stable organization would find it difficult to use existing structures to effect a change of this magnitude. A temporary management structure for the proposed change must be created that is uniquely suited to accomplish the task. The focus of this structure should be on the transition process.

The strategy for change involves a major issue and a significant modification in the way police officers are disciplined. The analysis of critical mass demonstrated that the Chief of Police will need to play a major guiding role in the change process. He, however, will not be able to devote the required time to manage the project personally. The Chief will have to remain involved and highly visible to demonstrate his commitment to the change, but he will need to select a high ranking officer to lead the management team and be a champion for the project. This executive, the Project Manager will take on an executive role and will report directly to the Chief of Police for the duration of the project. In

this capacity, the Project Manager will have the authority to cross organizational barriers in order to use the resources of those organizations whose support will make a difference in the success of the project and to make the necessary decisions to accomplish the task. The selected Project Manager must be committed to making the change process successful. The project manager must possess both internal and external organizational credibility and have better-than-average interpersonal skills.

The Project Manager will have to assemble a team comprised of representatives from the various constituencies that can effectively address fiscal, legal, moral and other issues. This diverse team will have the authority to mobilize resources to meet established deadlines and keep the project moving.

IMPLEMENTATION TECHNOLOGIES

Implementation of transition management plans must utilize varying technologies and methods because resistance to change is a natural phenomenon. This is often termed "The devil you know versus the devil you don't" know syndrome. The uncertainty that accompanies change will bring an increase in employee anxiety that could result in resistance to achieving the desired future state. This uncertainty and anxiety must be managed, and the Project Manager must be able to provide aid and counsel where and when necessary. Key problems can be anticipated by giving consideration to the timing of events, by insuring consistent and clear planning efforts, by free-flowing information and by developing within the

department a hunger to achieve the change. The advantages of change will have to be sold to the various constituencies so that the members will welcome the new procedures. The following methods have been selected for inclusion in the transition management plan.

Responsibility Charting

A responsibility chart is an effective tool for transition team members as well as those observing the process. The chart lists behaviors needed to bring about change, task identification, actions or decisions. This technique provides clarity, reduces wasted time and improves interpersonal relations of the team members. Appendix J contains a responsibility chart that frames some action steps for team members in the change process. The chart was developed with the assistance of a member of the Nominal Group Panel. Because of factors outlined above, the Chief of Police must select the transition team, introduce the project to members of the department, and approve most other action items. The project manager is responsible for plan development, the plan mission statement and other action steps. As can be seen, use of the chart can assist in avoiding confusion, minimizing needless power struggles by laying out team roles and responsibilities. Responsibility charting enables each person on the team to understand both his or her duties and responsibilities and those of fellow team members.

Conflict Management

Unmanaged conflict can doom the best laid plans, but conflict can be harnessed to create ownership of a situation and provide the

opportunity for personalization of the need to be part of change. The Project Manager could make use of a Confrontation/Goal Setting meeting to obtain the divergent views of the POA and the ACLU and attempt to bring them close enough to alignment to allow desired change to occur. Because of the negative aspects of the current discipline system the critical mass actors should be more willing to accept the proposed change strategy.

Milestone Recognition

The transition plan will include specific milestones on the way to the accomplishment of the plan goals that will be formally recognized by press release or department bulletin as appropriate when each is reached. This technique will be used to begin the psychological change process in the minds of the employees as well as those persons outside the organization. The technique will serve as a mechanism for feedback and to build momentum for plan acceptance. Additionally it can mitigate occasional poor flow of communication and reduce anxiety. Those responsible for milestone achievement should be publicly rewarded through formal recognition.

Vision Communication

The rationale for change and the vision of the desired future state must be communicated at every opportunity by the Chief of Police and his senior management staff. The need for this change must be so powerful that the employees begin to feel the organization as they know it will be at risk if the planned for change does not occur. The delivery of this message must be made at every opportunity as to create a bandwagon effect so that the

natural tendency to maintain the status quo is overcome and the change will no longer be suspect.

Quality Control

As the plan is implemented data should be collected to track the results of the change to see if the desired result has occurred. The statistics should be gathered monthly at the initial stage of implementation to insure the plan is functioning to achieve the desired results. After the plan has achieved success, then statistics could be gathered quarterly.

Conclusions

Following the introduction of this paper, the issue question quoted below was framed.

What will be the impact of outside forces on the police discipline process by the year 2002?

This issue question was then broken down into its component parts, a series of subissues described below.

- 1) What role will the courts play in effecting the appointing authority's ability to manage discipline?
 - a) Creating new rights for employees
 - b) Granting injunctions to stop or slow the process
 - c) Overturning imposed discipline
- 2) What effect will employee organizations have on the management of discipline?
 - a) Use of grievance procedures to change the results of discipline
 - b) Use of collective bargaining to effect discipline
 - c) search for legislative changes to effect discipline
- 3) What role will the public play in the management of discipline as it demands accountability for police misconduct?
 - a) Imposition of civilian review process
 - b) Formation of a task force on discipline
 - c) Use of the initiative process to change discipline process

In the futures forecast, this writer used a nominal group to identify trends and events that would identify outside forces that impinge on the police discipline process. During that process, it became clear that the panel was cognizant of the subissues because

of comments made during the process and their reasoning for the forecasts.

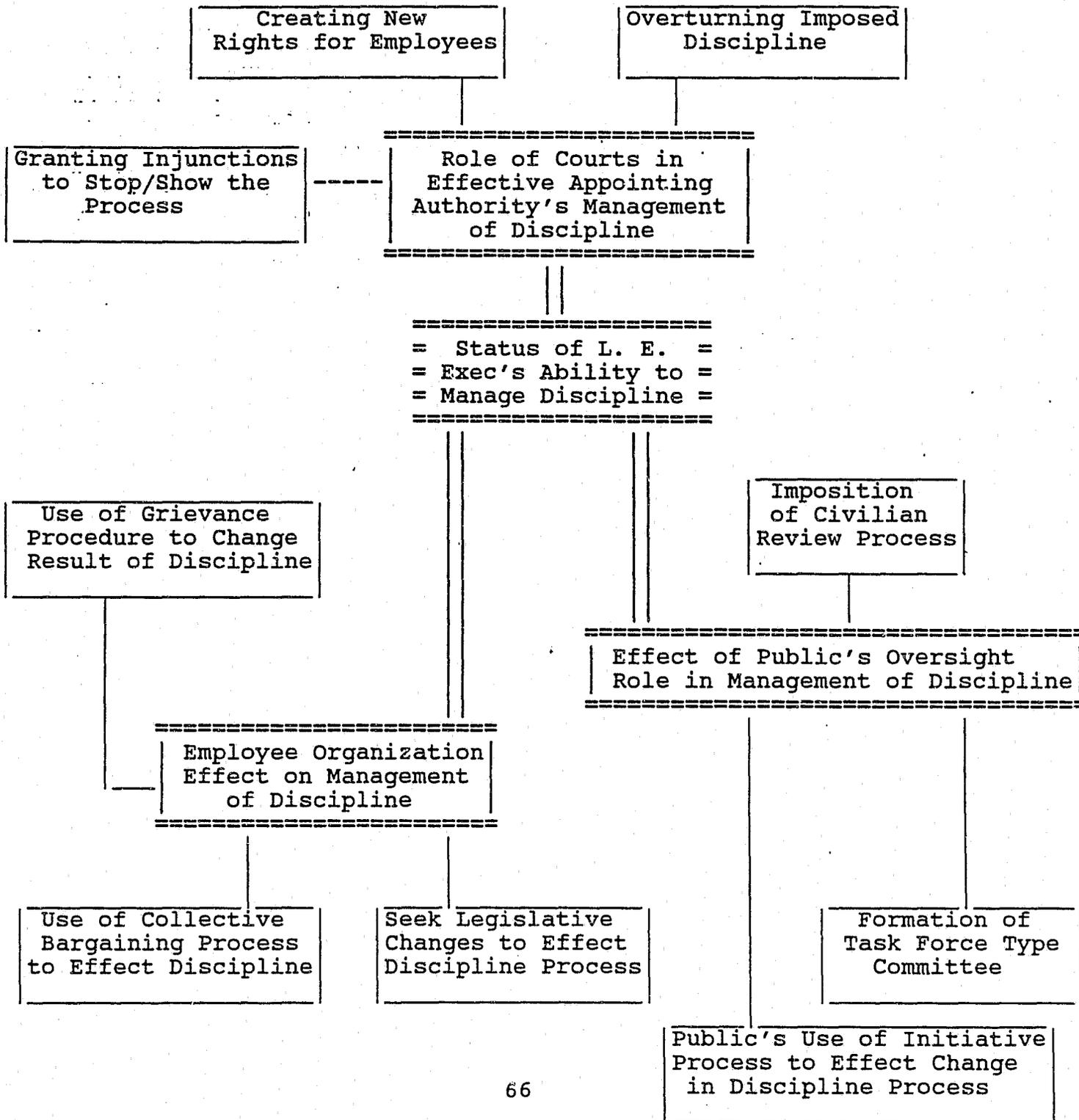
This awareness was again brought forward when the Modified Policy Delphi panel reviewed the list of potential stakeholders as it considered several strategic policy alternatives. The panel's recommended strategy gets to the heart of the subissues and their concern about the issues. The development of the transition management plan considered the issues and subissues in the preparation of the plan so that the outside forces would minimally influence the police discipline process in an undesirable way.

It is this writers belief that the transition management plan will permit the Chief of Police to allow sufficient involvement by the public and by the employee organization so that the impact of these forces will be more positive than negative. This belief is based on the premise that both of these outside forces are now involved in the process and not apart from it. That being the case, there is less likelihood that either one of these actors would try to use the courts to change results that they have been a party to or a process which they help develop.

The execution of the strategy as outlined in the foregoing paper should provide a positive impact by outside forces on the police discipline process in the Bay City Police Department by 2002. This should be a model for other chief executives to follow when outside forces begin to be a negative influence in their organization.

APPENDIX A

FUTURE'S WHEEL



APPENDIX B

- * Paul Chignell, City Council Member San Anselmo
- * Victoria Clayton, Deputy City Attorney, San Francisco
- * Jerry W. Akins, Counsel to the Police Chief San Francisco
- * Gregory W. Winters, Captain, San Francisco Police
- * James Ilnicki, Personnel Officer, San Francisco Airport
- * Stephen Johnson, Secretary San Francisco Police Officers
Association SEIU Local 911
- * Eileen Luna, Acting Director, Office of Citizen Complaints

APPENDIX C

October 22, 1991

Dear :

This letter is a request for your participation in a meeting to help me gather data for my Independent Study Project for the POST Command College. The POST Command College is a program for future study by law enforcement managers which will result in a report which will be a discussion of some future issue and a strategic plan to implement the result of the study.

The issue which I have selected for study is "The Impact of Outside Forces on Police Discipline by the Year 2002." With this topic in mind, I have selected you for the special insight you possess and the unique perspective you bring to this important question. Your participation will bring the necessary diversity I seek to fully explore this issue.

I have scheduled this meeting for November 14, 1991 at 8:30 a.m. in Rome 505 of the Hall of Justice. I anticipate this meeting will take approximately four hours therefore it is important we begin on time. I will have morning refreshments available and lunch will be provided.

Sincerely yours,

EDMUND PECINOVSKY
Lieutenant
Commanding Officer
Management Control
Division

APPENDIX D

Trend Defined

Changes in the social or legal climate that are creating change within and for police departments.

A measure of change over time.

Event Defined

Occurrences such as the passage of a new law that changes conditions within society in general, or within police department or which alter conditions of police discipline.

A one time occurrence observable in retrospect.

APPENDIX E

Trends

- Public Access & Limitations to Department Policy
- Union Militancy and Involvement in Discipline Process
- Increased Scrutiny by Courts
- Legislative Body Activity
- Public Expectations Changing
- Arbitration in Disciplinary Matters
- Budgetary Pressures
- Civil suits re: Policy Misconduct
- Public Involvement in Policy Matters
- Attitude of New Recruits
- Demographic change in the Population
- Federal Interference with Local Controls
- Privatization of Public Services
- Private "Armies" in Guise of Security Service, gangs
- Changes negotiated by Other Agencies, Locally & Other
- Desire of Experienced Personnel to Influence
- Expanded Scope of Bargaining
- Informal Resolution of Process
- Changing Attitudes of Managers
- Recruit Quality
- Use of Legal Council
- International Treaties - Impact on Local Law Enforcement
- Police Agency Demographic by Agent Culture
- Change in Political "models"
- Training Costs
- Crime Rates
- Police Leadership Demographics by Age & Culture

APPENDIX F

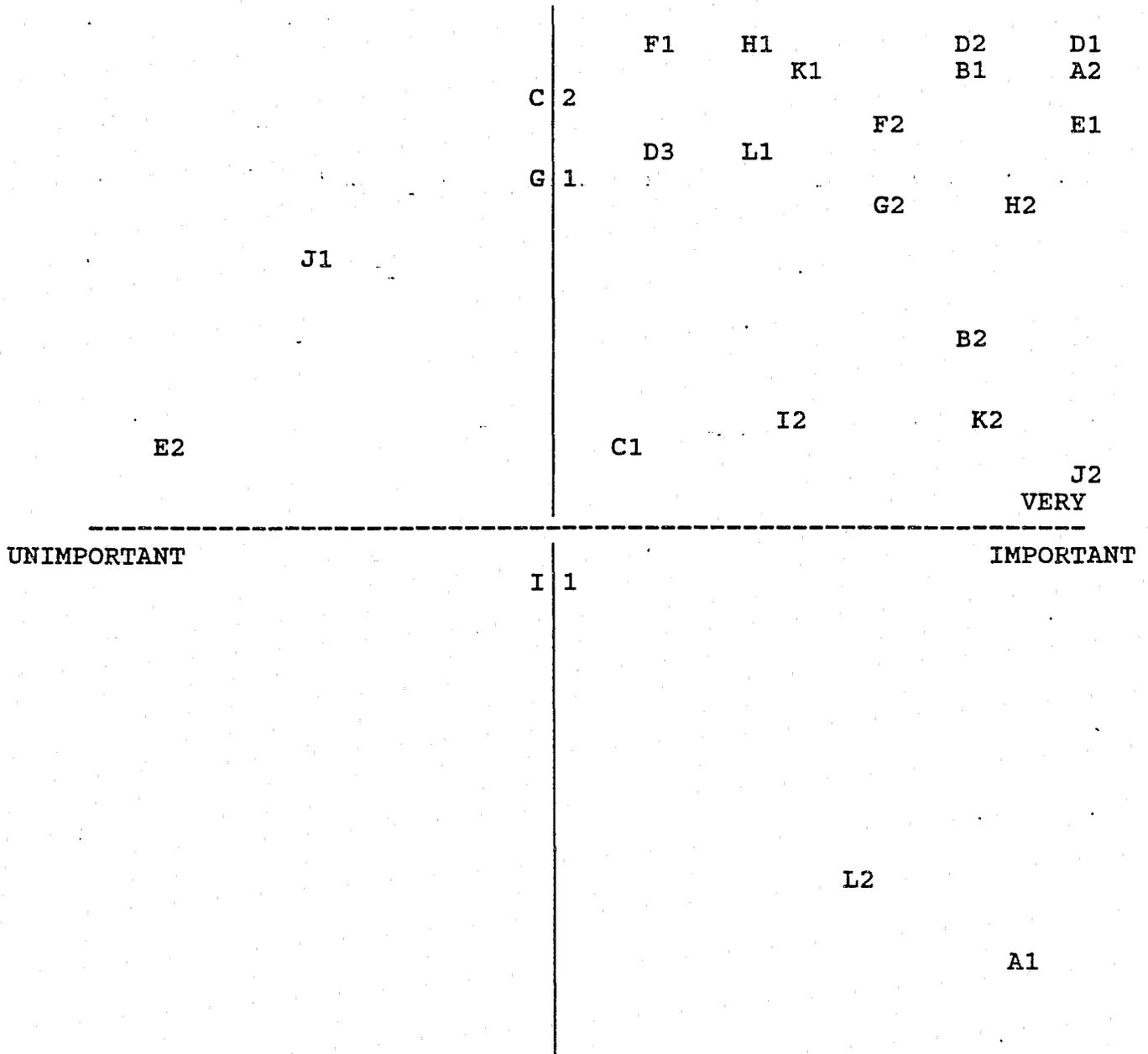
Events

- Major Police Incident
- Court Decisions re: Discipline
- Collective Bargaining with Arbitration
- New Laws regarding Discipline
- Citizen Oversight
- Major Incident (Earthquake, etc.) where by Officers refuse to Respond
- Cities and Counties consolidate Services
- Employee Organization affiliation with Union
- New Police Chief
- New Chief Executive for the City
- Job Action
- Charter Amendment restricting Chief of Police Authority
- Union Negotiation - Discipline by Panel
- P.O.S.T. Goes Broke - Costs Shift to Local
- Major Permanent Change in Authorized Numbers
- Early Retirement
- Charter Amendment to Public elect Police Commission
- Major Disturbance (Civil) involving Extensive Property Damage
- Demand for Recognition from Alternative Police Officers Organization
- Major Electric Failure
- Change of Policy re: Crowd Control & Management
- Recruit "Backgrounding" invalidated by Courts
- Decision to remove Disciplinary Authority from Chief
- New Union Leadership
- Local Government Superseded by Emergency Powers
- Disciplined Officers win Civil Rights Action
- Poor Selection of Managers
- 1043 Repealed
- Arbitration Decisions
- Collective Bargaining Repealed
- 8.0 Earthquake
- AIDS becomes Airborne (New Transmission Method)

APPENDIX G

ASSUMPTION MAP

CERTAIN



UNCERTAIN

STAKEHOLDERS

-
- | | |
|-----------------------------|------------------------------------|
| A. Dist. Att. / US Att. | G. State Legislature |
| B. Victim / Witness | H. Interest Groups |
| C. News Organizations | I. Neighborhood Grps / Bus. Assoc. |
| D. Employee Organizations | J. Judiciary |
| E. Executive Branch of City | K. Office of Citizens Complaints |
| F. Local Legislative Body | L. City Attorney / Risk Manager |

APPENDIX H

MODIFIED POLICY DELPHI PROCESS PANEL

- * Paul Chignell, City Council Member, San Anselmo
- * Leanna Dawydiak, Aide to Assembly Member John Burton
- * John Crew, American Civil Liberties Union
- * Barbara Attard, Senior Investigator, Office of Citizen Complaints
- * Sam Craig, Past President, Officers For Justice
- * Jerry W. Akins, Attorney for the Chief of Police San Francisco Police Department
- * Thomas Donahoe, Lieutenant, San Francisco Police
- * Gregory Winters, Captain, San Francisco Police
- * Dr. Woodrow Tennant Phd, San Francisco

APPENDIX I

Dear _____:

The purpose of this letter is to invite you to participate as a panel member to help me develop a strategic plan for my Independent Study Project for the POST Command College. You will be joined by other professionals in exploring a wide range of possibilities so that a most likely future can be planned.

My project is titled:

The Impact of Outside Forces on
The Police Discipline Process
by the Year 2002

The issue question for my project is:

What will be the status of a local law enforcement executive's ability to manage discipline by the year 2002?

Attached you will find a list of stakeholders that I have identified as impacting the issue question. A stakeholder is defined as:

Individuals or groups who (1) impact what you do; or (2) are impacted by what you do; or (3) care about what you do.

We will also try to identify unanticipated stakeholders who can radically impact a potential strategy.

I have scheduled this panel to meet on Thursday, January 30, 1992 at 0830 hours in room 102 at the Police Academy at 350 Amber Street. This panel will take approximately four hours and lunch will be served.

I look forward to your participation in this project and thank you for agreeing to participate in the project. If you have any questions, please call me at 553-9164.

Sincerely Yours,

EDMUND PECINOVSKY
Lieutenant, Commanding Officer
Management Control Division

APPENDIX J

Responsibility Chart

| ACTORS | C H I E F | O F F I C E | P R O J E C T | M A N A G E R | P O A | O C C | A C C L U | P U B L I C | B O A R D | S U P P O R T | M A Y O R | M E D I A |
|---|-----------------------|----------------------------|---------------------------------|---------------------------------|-------------|-------------|-----------------------|----------------------------|-----------------------|---------------------------------|-----------------------|-----------------------|
| ACTIONS | | | | | | | | | | | | |
| Mission Statement | A | | R | I | I | I | I | | S | S | | - |
| Plan Development | A | | R | S | S | S | S | | S | S | | S |
| Selection of Transition Management Team | R | | S | S | S | S | - | | I | I | | - |
| Introduces Project to Department | R | | I | - | - | - | - | | - | - | | - |
| Media Releases | A | | A | - | - | - | - | | I | I | | R |
| Progress Reports | A | | R | I | I | I | - | | - | - | | - |
| Monitor Program | A | | R | I | I | I | I | | I | I | | I |
| Establish Budget | A | | R | - | - | - | S | | A | A | | - |
| Education of Employees | A | | R | S | S | S | - | | I | I | | - |

R = Responsibility (not necessarily authority)
 A = Approval (right to veto)
 S = Support (commit resources toward)
 I = Inform (to be consulted)

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**THE IMPACT OF OUTSIDE
FORCES ON THE POLICE DISCIPLINE PROCESS
BY THE YEAR 2002**

**EDMUND PECINOVSKY
COMMAND COLLEGE CLASS 15
PEACE OFFICERS STANDARD AND TRAINING (POST)
SACRAMENTO, CALIFORNIA**

JANUARY 1993

This Command College Independent Study Project is a FUTURES study of a particular emerging issue in law enforcement. Its purpose is NOT to predict the future, but rather to project a number of possible scenarios for strategic planning consideration.

Defining the future differs from analyzing the past because the future has not yet happened. In this project, useful alternatives have been formulated systematically so that the planner can respond to a range of possible future environments.

Managing the future means influencing the future--creating it, constraining it, adapting to it. A futures study points the way.

The views and conclusions expressed in the Command College project are those of the author and are not necessarily those of the Commission on Peace Officer Standards and Training (POST).

INTRODUCTION

The degree to which the public feels free from crime, and is secure to enjoy the benefits offered by a community, is grounded in large part on how it perceives its police department. This perception is based on personal experience, on how the media portrays the police and on how the officers conduct themselves publicly and privately. The perceptions derived from these views of the police transfer into opinions about the degree to which the police are trained and are efficient. These perceptions also indicate the degree individual police officers are dedicated to providing service to the public, and the extent to which they may be termed true "public servants".

At the same time, the organization, represented by its chief, may be considered to be under two sets of conflicting pressure. On the one hand, there are concerned citizens and legal groups eager to protect the public from perceived inappropriate street officer behavior. On the other, there are the individual street officers and, most importantly, the police officers' association who try to ensure fair and equitable treatment for police officers. The needs and desires of these two forces are frequently very different. Conflict between them can be highly destructive to the morale of the department.

The less secure the public feels, coupled with publicized instances of unprofessional conduct by police officers, the greater will be the demand for changes in the management of the police

department. One area that gets that specific focus, is the way discipline is administered in the police department.

Two examples of this phenomenon are recent studies done by independent commissions in two police agencies. The first was precipitated by the video-taped arrest of Rodney King on March 3, 1991. The world-wide attention this incident received gave rise to a major investigation headed by Warren Christopher¹. Prior to the formation of the Christopher Commission, the response by the organization through the actions of its chief to that single incident changed the public's perception of safety in the City of Los Angeles.

Concurrently the Los Angeles County Sheriff's Department came under severe criticism arising from public beliefs about an increase in the number of officer-involved shootings. The Board of Supervisors commissioned a study of the Sheriff's Department under the direction of respected retired Superior Court Judge James G. Kolts.²

Both of these reports cited examples of how discipline was administered in the two departments and recommended changes that would allow for greater public involvement. The underlying belief arising from the facts uncovered in these studies is that the discipline process in the two organizations is used to protect officers who engage in misconduct, thereby allowing them to go unpunished or, if punished, to remain on the force.

These two reports, as well as this writer's observation of the discipline process elsewhere in California, led to the identification of the emerging issue question; "What will be the impact of outside forces on the police discipline process in the year 2002?" In considering this question the writer identified three subissues which bear on the issue question.

1. What role will the courts play in effecting the appointing authority's ability to manage discipline?
2. What effect will employee organizations have on the management of discipline?
3. What role will the public play in the management of discipline as it demands accountability for police misconduct?

DISCUSSION OF ISSUES

As the issue and subissues are considered, the environment in which discipline takes place must be examined. In California, the Penal Code and Government Code contain relevant statutes that in large part govern these matters. Penal Code Section 832.5³ requires that police agencies have a process to investigate allegations of police officer misconduct. Penal Code Section 832.8⁴ defines personnel files. Penal Code Section 832.7⁵ states that personnel files are confidential and are not subject to disclosure except under limited circumstances. The definition of personnel files includes the investigation of alleged police officer misconduct.

In addition Government Code Section 3300 to 3311,⁶ commonly known as the Public Safety Officers Procedural Bill of Rights Act,

give statutory protection to police officers. Under these laws, police administrators are not permitted to make public the result of police misconduct investigations. This prohibition against disclosure of information from these investigations is of questionable value, particularly in agencies where there are perceptions by the public that the department does not address police officer misconduct in a way the public or factions in the community believe is appropriate. This veil of confidentiality creates the basis of mistrust by the public when it inquires into the results of misconduct charges.

The California Court of Appeals opened the door to break this veil of confidentiality in June 1990 in Bradshaw v. City of Los Angeles 221 Cal App 3d 908.⁷ The holding in this case was that the issue of confidentiality of personnel files is controlled as a matter of public policy rather than strictly by statute. This writer, however, believes most agencies in the state have not altered their position regarding disclosure of misconduct investigations, because they do not agree with the court's reasoning and believe the decision will be overturned at some time in the near future.

Against this backdrop, it is evident that the outside forces of the courts, police employee organizations and the public are all attempting to impact the police discipline process. These three forces create conflict for police administration. To meet the challenges facing contemporary police discipline practices, it is becoming apparent that a chief law enforcement executive will need

to change the way the police discipline process is viewed by the public and by the courts. One way is to adopt a strategy that favors openness.

Adopting policies such as the following ones is one way to change the paradigm to foster public confidence.

1. Open the discipline process to public scrutiny and review to the extent permitted by law.
2. Meet monthly with a concerned citizen's committee to ensure public confidence in the discipline process.
3. Support legislation that will remove barriers that keep the results of police officer discipline confidential.

Peter F. Drucker, the father of modern management theory, said "Perhaps the most important task of government in a pluralist society is to set standards"⁸ Nowhere in government is it more important to set standards than in the police forces of our communities. Police officers are there to enforce the laws of society as adopted by its elected representatives. These men and women are viewed by the public as special people entrusted with the enormous power to take away a citizen's liberty or to use deadly force if necessary. Since the public entrusts its police officers with this power it also tends to hold them to a higher standard of conduct than expected of other public servants. When the local interest groups were interviewed, a common theme of distrust emerged, a theme based on the lack of information provided publicly about the process of internal investigations.⁹

Changing the way organizations are managed has become a crucial ability for any agency head so that public confidence is maintained and there is continued support of the agency. Entrepreneurship has long been the watch word for energetic leaders in the private sector. The time has arrived to transfer the principles learned in the private sector to challenge leaders in the public sector to find better ways to deliver services. Entrepreneurship maybe that vehicle.

Dr. Anne C. Cowden, a public administration professor at Sacramento State University; discussed entrepreneurship by changing internal mechanisms of organizations to create ownership.¹⁰ If mid-level managers are made part of the discipline process they will take greater care to ensure that the organization enforces its policies and procedures. It will also improve the image of the organization because the middle managers will be a part of the change process, thereby, giving them vested ownership to help achieve success. Peter F. Drucker said "To build entrepreneurial management into the existing public-service institutions may thus be the foremost political task of this generation"¹¹

Creating entrepreneurial spirit within the police agency is a challenge for tomorrow's chief of police as a means of maintaining public support. In business terms, there are two ways to create and sustain superior performance over the long haul. First, the organization must take care of its customers though superior service and quality and, second, the organization must constantly innovate in order to stay abreast of developments.¹² In the public

sector, a simplistic point of view is the customer is the citizen that makes a call for service or needs help on an Ad hoc basis. Constant innovation in the entrepreneurial spirit means constantly searching for ways to serve that customer better.

The implementation of the policies on discipline mentioned earlier would go a long way toward achieving the necessary level of trust an effective police agency needs to maintain itself politically. These policies require an agency chief to share power that he or she currently possess in order to gain power in the form of public confidence and support. Gone are the days when public leaders could operate with impunity. They now face greater interest by the courts, the public and employee organizations.

A number of futures studies completed within the Command College program and maintained in the POST library address these issues. Earl Callander discussed the desire of the public to participate in police policy formation in his futures study.¹³ Although his discussion centered on service delivery, that idea transfers readily to the administration of the department. In Philip Doran's future study, the discussion focused on the creation of a statewide committee for review of major complaints of police misconduct.¹⁴ This study suggests that the public's interest in the discipline process perhaps should be taken out of purely local jurisdiction and elevated to a statewide level. One can see from these two studies that there is belief among some police professionals that the public should have a greater voice in how police departments are managed.

Lewis Pollack examined the use of a labor/management committee to solve internal problems.¹⁵ This study suggests that there should be a greater sharing of power in police organizations to meet the challenges of the future. Daniel G. Cross discussed the power relationships in police organizations.¹⁶ Although this discussion centered on relationships within the changing face of police organizations, it provides a mirror of changing power relationships in society. David Hall looked at the possibility of a peer-based discipline process as an effective way to deal with misconduct within the organization.¹⁷ His suggestion is that involving peers in the administration of discipline may be a desirable alternative to existing processes. These studies clearly show there is a significant body of thought that believes greater involvement by employee organizations is the answer to improving the way organizations address allegations of misconduct within police agencies.

The impact of these outside forces on the discipline process cannot be ignored. If an agency chief wants to have support from both the public and the employees of the organization, then the concerns raised by each of them must be part of any successful discipline process. The way agency heads achieve openness may differ from agency to agency but underlying the entire program is the issue of trust. There must be trust from the public that police officers will treat them fairly and will not abuse the power the public has bestowed on these officers. Likewise, the officers must perceive that the agency will treat them fairly and not use

them as scapegoats to mollify a dissatisfied citizen in order to maintain public support. This is the crux of the matter.

In discussing the functioning of an Internal Affairs unit the International City Management Association in its publication Local Government Police Management presents the view, ". . . that the unit is a fact-finding body and is as interested in establishing innocence as in establishing guilt."¹⁸ How can this fact-finding process have credibility if there are built-in mechanisms to shroud the whole process in secrecy? The current process is dependent solely upon the public's perception that the chief has directed a impartial investigation of alleged misconduct and has taken the appropriate steps to correct improper behavior. That trust can be stretched to the breaking point when a well-publicized incident takes place in which the public forms a belief that an officer or officers acted improperly. This is even more an issue when it sees the officer maintain his or her position in the department without any apparent penalty. In 1982 Tom Peters and Bob Waterman, wrote a critically acclaimed book that critiqued successful organizations. As Peters and Waterman write, "Probably few of us would disagree that actions speak louder than words . . ." ¹⁹. If the words are that a full and thorough investigation into the allegation and appropriate action has been taken based on that investigation are spoken but the actions are not perceived to match, then the words lose their meaning. Then the public impression brought out by the media or advanced by an interest group is that no action or too little action is taken to correct what the public believes to be

clear and gross misconduct. The statements made and the investigative results do not appear to match. That is the time when openness in the discipline process plays a crucial part in maintenance of public confidence and trust.

If an agency head seizes the initiative, he or she can maintain the confidence of the public as well as the trust of the employees. This initiative can begin by holding regular meetings with interest groups to discuss the issues surrounding the maintenance of discipline. These meetings can be used as a forum for the chief to share the results of investigations, if a policy has been adopted to allow for such dissemination of information.

The citizen's committee, as represented by the interest groups, will have an opportunity to review the factual basis upon which conclusions are drawn in the investigation. It will then have a greater understanding of the facts because it will have had a chance to see the officer's version of an incident. The way two individuals perceive one event can vary dramatically based on what information they have, what their perspective is and what is the desired result of an encounter. If historic and cultural bias are factored into how an individual sees a set of facts, it is clear to see how two renditions of the same event can emerge. It makes it easier to see how a police officer trying to engage in an enforcement action and a citizen who happens to observe the activity would have completely different versions of the same event.

A policy that would allow the discipline process to be more open could take many forms. It could be to make investigative reports public; there could be public hearings on all discipline matters, or the city could provide an auditor to oversee the process on behalf of the public. This auditor could be someone who serves a fixed term of service with appointment by the executive branch of government and confirmation by the legislative branch of government after public hearings had been held.

Any of these processes would impinge upon the way law enforcement does business today. If the agency enjoys public support and confidence, and its employees feel they receive fair treatment from the agency chief, there is little need to consider change. If an agency does not enjoy that support and it continues to do business as it's always done, then it faces the probability of being critically evaluated both by the public and by its own employees. This scrutiny will require the use of resources by the agency in ways that do little to improve the delivery of service and foster a feeling of confidence necessary to address real community concerns, such as freedom from the fear of being the victim of a crime.

CONCLUSION

It may be the chief executive who will seek changes to existing laws or negotiate provisions to labor agreements. Such amendments would permit the requisite amount of openness to the discipline process to accomplish the changes needed to gain both public support and employee confidence. There is little doubt change will have to occur in a manner that an agency is not using a process which does not enjoy the support needed for success. If he or she wants to accept this challenge, an agency chief may be out of the mainstream as represented by his or her peers and may encounter resistance from the profession. But there comes a time when what always has been done is no longer good enough for the community being served.

If law enforcement does not engage in critical self-analysis and seek change, then the courts are likely to step in and make changes that have undesirable consequences. The courts' view of what is legally correct is based on what is written in the statute books, and how the law applies to a particular set of facts. The courts often limit their review to arguments made in pleadings and in oral arguments made before the bench. The courts rarely have regard for the impact of their decision as it applies other than in the case at hand. If a decision leads to lack of public confidence or the loss of employee support of a police agency then the courts reason that changes can be made administratively or legislatively. They take no responsibility for negative consequences.

Given the uncertainty of a court decision, a progressive and futures-oriented chief executive will seek to make changes which he or she can accept, and will tailor those changes to the agency and community the department serves. Input from employees and the public are subject to negotiation, while a court decision can only be implemented.

As has been discussed, the outside forces affecting the police discipline process are many. The public agenda is to have confidence that its police force is well-trained and disciplined so that the community is a safe place to live and work. The employees need to feel that the organization will treat them fairly and will not sacrifice them for the sake of the organization. The courts are always in the background as arbiter of disputes and can render decisions that can not be resolved in other forums.

If agency heads wish to minimize the impact of these outside forces and avoid administrative difficulties in the future, then policy initiatives such as the ones advanced here are worthy of examination. The leaders that maintain a firm hand on the tiller of their organizational ship will be able to navigate troubled waters, secure in the knowledge that they have support and confidence within and without the organization. They will likely be the successful law enforcement leaders of the next decade.

Suggested areas of future study are the role played by the media in forming public opinion on police discipline, the impact of legislative action on police discipline or the impact of police unions on the police discipline process.

ENDNOTES

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5. California State Penal Code Section 832.7
6. California State Government Code Section 3300-3311
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