

HOW WILL EMPLOYMENT CONTRACTS AFFECT MEDIUM
SIZE URBAN AGENCY MUNICIPAL POLICE CHIEF RECRUITMENT BY 2008?

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By

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

This project, written with the guidance and support of the student's agency, mentor and advisor, has been presented to and accepted by the Commission on Peace Officer Standards and Training, State of California, in partial fulfillment of the requirements of Command College Class Thirty-Five.

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ACKNOWLEDGMENTS

My reason for selecting this topic was the opportunity to make a difference in the future of our profession.

As a fan of Joel Arthur Barker, I owe a substantial amount of my understanding of paradigms and paradigm shifts to his book, *Paradigms, The Business of Discovering the Future*. On the topic of employment contracts and police chief recruitment, I am neither a paradigm shifter, nor a paradigm pioneer. These shifters and pioneers were present before I ever arrived at the game. My hope is that this project supports those paradigm shifters and pioneers, and helps move the profession along until we reach the tipping point.

There are many of my personal concerns, fears, and thoughts contained in the many quotes and supporting information provided in this project. As a young Gen X lieutenant, I am often asked when I plan to become a police chief. My response and reasoning is not unlike those the reader is about to learn in a few turns of the page.

A considerable amount of time and effort was dedicated to the research and writing of this project, as well as the entire 18-month Command College experience. Command College was not my first jaunt into education and executive development, nor will it be my last. I owe a great deal to my wonderful wife, Malynda, and my two beautiful young daughters, Kennedy and Harper, for their support, love and understanding during not just Command College, but law school prior, and I am sure, more school after.

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CHAPTER ONE

ISSUE IDENTIFICATION

Introduction

This project will examine how the use of employment contracts might affect a medium-size agency municipal police chief recruitment by 2008.

Looking out towards the horizon, many law enforcement professionals are finding themselves concerned about the future leadership of their organizations. A number of police chiefs have retired, or plan on retiring in the next few years. A number of the second and third in command (i.e. deputy chiefs, commanders, captains) are also retiring. In part, these retirements are due to a change in the California Public Employees' Retirement System benefits. As a result, a large number of police chief positions need to be filled, by a shrinking field of willing and capable applicants. Unfortunately, these retirements and subsequent vacancies will continue into the foreseeable future. While, admittedly, it is doubtful an agency would be faced with the prospect of not having a single applicant for a police chief vacancy, it is entirely possible to find an agency in the position of not having a sufficient number of qualified candidates to choose from. In fact, this is already occurring, for a number of reasons. The challenge will be to fill these positions with well-qualified leaders, who are ready to bring their organizations and the profession into the future.

Statement of the Issue

Desire

Who will be stepping up to fill the shoes of the departing police chiefs? Of those who are ready to do so, how many are willing? If they are not willing, how can they be encouraged to make the decision to step forward?

An interview with an assistant police chief in Seattle, published in the New York Times provides a good illustration of the problem.

'I would absolutely not take a job as a police chief,' said John Diaz, an assistant police chief in Seattle, who at 44 already has a good national reputation and is sought after by recruiters for a chief's post. 'The politics of being police chief have become so insane no one wants the job,' said Mr. Diaz, who is particularly attractive to recruiters because he is Hispanic. 'I work an 11-hour day, but our chief is here before me every day and doesn't leave until I'm gone, and all he gets is attacked in the media all the time.'¹

The article continues,

The hardest part of the problem to quantify is the number of highly qualified senior police executives who are passing up offers to become police chiefs, and as a result, the number of cities that are having to settle for their second or third choice. Among cities that have had difficulty recently are Denver, Ann Arbor, Mich., Riverside, Calif., and Prescott Valley, Ariz., some recruiters and chiefs said.

'We are down about 35 percent in the number of qualified candidates when we do chief searches now,' said Jerry Oldani, president of the Oldani Group, a search firm in Bellevue, Wash.

'Up until five years ago, people broke their necks to be big city chiefs,' Mr. Oldani said. 'But now there are a lot of senior police officials who just don't want to be chief.'²

¹ Fox Butterfield, *City Police Work Losing Its Appeal and Its Veterans*, The New York Times on the Web, 30 July 2001.

² Ibid.

Chuck Wexler, executive director of the Police Executive Research Forum (PERF), offered insight about several reasons why this mindset has been so prevalent. “Pay for police chiefs is relatively low – from \$70,000 to \$150,000 – so low that some officers or sergeants, with overtime, earn more than their bosses.”³ Moreover, “the expectation for chiefs are higher than ever, because of the new belief that chiefs can do something about reducing crime.”⁴ Wexler summarizes that “[w]hen people add up all these costs, it often isn’t worth it to take a chief’s job.”⁵

Gary Brown, a principal with Avery Associates, echoes this sentiment. “The question is: Are fewer candidates today willing to vie for the position of police chief? The answer is a resounding ‘yes.’ Not all that many years ago, numerous people at all levels of law enforcement were interested in being promoted to the top position.”⁶ Brown adds,

People often become content in the No. 2 or 3 position in the organization. I typically hear reasons like this: ‘Why should I leave the comfort of my department where I’m getting paid nearly as much as the police chief for an ‘at will’ position as a chief in another city? I can go home and have fewer worries than the chief. After all, I still have a lot of autonomy. If I become chief, I just increase my potential for headaches and a heart attack and heighten the risk of losing my job.’⁷

³ Fox Butterfield, *City Police Work Losing Its Appeal and Its Veterans*, The New York Times on the Web, 30 July 2001.

⁴ Ibid.

⁵ Ibid.

⁶ Gary Brown, *What You Should Know About Recruiting Police Chiefs*, Western Cities, October 2002 (on-line).

⁷ Ibid.

Another reason why Brown believes candidates avoid promoting to the top rank is the “chief’s role is much more difficult than it once was and not as much fun. It does appear at times that there are fewer rewards today for serving in the top position.”⁸

Leadership Development

Less than 18 months ago, the California Police Chiefs’ Association sent a survey to all 369 (as indicated on the survey) California municipal police chiefs. There were 208 responses to this survey. The chiefs were asked what the main issues were facing policing in the next five years. Surprisingly, only 32 respondents (or 15.3%) in the survey mentioned leadership succession as one of the top priorities.⁹

This is troublesome because, as discussed in depth below, there is an exodus of police leadership from the law enforcement profession. This trend will continue into the future, and there is a great likelihood it will get worse. Gary Brown agrees, “[a]nother concern is that police chiefs have not adequately prepared people to succeed them.”¹⁰

Steve Staveley, a retired Chief of Police and Director of Law Enforcement for the California Department of Justice candidly points out that in his experience “... most police organizations today have good leaders at many levels –

⁸ Gary Brown, *What You Should Know About Recruiting Police Chiefs*, Western Cities, October 2002 (on-line).

⁹ California Police Chiefs’ Association, “California Police Chiefs Demographic Survey”, Chief Steve Krull, Oakdale Police Department, July 2001.

although that is about to change with the advent of “3% at 50” and simple advancing age of those who joined our agencies in the 60s and 70s.”¹¹

Staveley is not alone in his concern. Gary Brown makes a number of “predictions for the future” that are based upon his experience both as a police chief and an executive recruiter,

... [M]ore inexperienced police managers will assume the position of police chief. Increasingly retirement benefits will result not only in the early retirement of police chiefs, but a significant brain trust loss as well. Those same retirement benefits will entice many of the No. 2 and 3 staff officers, those most likely to succeed the police chief, into retiring at the same time. As such, you may see police chiefs who are currently no more than a first-line supervisor or mid-manager. They will have to learn their executive roles ‘in the saddle.’ Some may not succeed because they won’t be able to make the adjustment.¹²

These comments and concerns do not reflect confidence in the future leaders of the law enforcement profession.

California Public Employees Retirement System

“3% at 50” Retirement Plan

As a result of the passage of California Senate Bill 400, on January 1, 2000, CalPERS made the “3% at 50” retirement system available to public agencies. Prior to the implementation, the majority of municipal law enforcement agencies were on the “2% at 50” retirement system.

¹⁰ Ibid.

¹¹ Steve Staveley, *Leadership*, a handout presented at the California Association of Chiefs’ of Police annual meeting, February 2003, Oakland, California.

¹² Gary Brown, *What You Should Know About Recruiting Police Chiefs*, Western Cities, October 2002 (on-line).

The new 3% at 50 plan spread rapidly across the state. As of April 2003, of the 336 organizations CalPERS recognizes as municipal law enforcement agencies, 161 of them have the 3% at 50 formula. The remaining either have the 2% at 50 formula, or another CalPERS option.¹³

The 3% at 50 plan works as follows. For each year of service, the employee earns 3% of his or her final compensation per year of service.¹⁴ Final compensation is the “average monthly pay rate for the last consecutive 36 months of employment (or 12 months if [the] employer has contracted with CalPERS to provide one-year final compensation).”¹⁵ There are only a handful of California municipal law enforcement agencies that use the last consecutive 36 months of employment. Almost every agency contracts for the 12-month final compensation plan.¹⁶ CalPERS will use either the last 36- or 12-month consecutive period to compute the final compensation, or another 36- or 12-month consecutive period if another period other than the last period before retirement is higher.¹⁷ An example in which the last consecutive period might not be the highest is the situation where a sworn officer laterals from a larger, higher paid department, to a smaller, lesser-paid department as he or she nears retirement.

¹³ David Hall, Public Information Officer, California Public Employees’ Retirement System, interview by the author, 14 April 2003.

¹⁴ California Public Safety Employees’ Retirement System, *Local Safety 3% at 50*, 5.

¹⁵ *Ibid.*, 6.

¹⁶ Hall interview.

¹⁷ *Ibid.*

Currently, the percentage of pay upon retirement cannot exceed 90% of the final compensation.¹⁸ To be eligible for a service retirement under the CalPERS system, a public employee must be at least age 50 and have five years of service.¹⁹

Thus, under the current 3% at 50 retirement system, a public employee with thirty years of service will have attained the maximum benefit allowable (thirty years of service multiplied by 3% per year equals 90% of the final compensation.) As a result, a thirty-year veteran will not increase his or her retirement benefits by continuing employment. Looking at this another way, if this same thirty-year veteran retired, he or she would earn 90% of the final salary. By continuing to work, he or she is earning 100% of their salary. As such, this veteran is working for ten cents on the dollar (100% current salary minus 90% retirement salary earning equals 10%). This does not leave much incentive to remain working once the maximum 30-year milestone is reached.

At what age can an employee reach the maximum allowable benefit? Under California law, a peace officer must be 18 years old.²⁰ Consequently, a thirty-year veteran can be 48 years old and have achieved the maximum benefit.

On January 29, 2003, Senator Dunn introduced California Senate Bill 100. This bill will raise the maximum cap from 90% to 100% of final compensation, by

¹⁸ California Public Safety Employees' Retirement System, 5.

¹⁹ Ibid., 4.

²⁰ California Government Code §1031(b).

adding California Government Code section 21391. According to a CalPERS actuarial study, this proposal will not cost any additional money.²¹

This Senate Bill is not free of controversy. An editorial in the Orange County Register takes the position that in such troubled economic times, “[e]ven if SB 100 were a good idea, couldn’t it wait? The Legislature should shelve SB 100 permanently, or at least wait for better times.”²²

Retirement Rate

According to CalPERS, during Fiscal Year 1998/1999, 750 local public safety members retired. This figure includes both sworn police and fire personnel. In Fiscal Year 1999/2000, 748 local public safety members retired. This is almost the exact same number of retirements as the year prior. Halfway through the 1999/2000 fiscal year, the 3% at 50 formula went into effect (January 1, 2000). This changed the otherwise consistently level rate of retirements.

In Fiscal Year 2000/2001 (post-3% at 50) the number of local public safety members retiring rose 19% to 922. The number jumped an additional 33% in Fiscal Year 2001/2002 to 1374.²³

²¹ David Hall, Public Information Officer, California Public Employees’ Retirement System, interview by the author, 14 April 2003.

²² Orange County Register Editorial, *Pension Plan Excessive*, The Orange County Register on-line, 24 March 2003.

²³ Hall interview.

According to CalPERS, the rate of retirements is predicted to soar even more dramatically in the next several years. There are two main reasons why this will occur.²⁴

First, in the late 1990s, the economy was doing well. As a result, local public safety members were experiencing relatively high salary increases as part of their Memorandums of Understanding. So, many members continued working to obtain the higher contractual salary increases in order to raise their final compensation figures for the purposes of the retirement benefit calculations explained above.²⁵ The second reason is that during the same time period, many members were waiting for the maximum retirement percentage caps to rise, which it did quickly from 75% to 80%, and again to 90%.²⁶ The same delay could again occur if the 100% cap were to progress through the legislature.

The impact of the 3% at 50 system is being felt by local agencies. Gary Brown observes that the “[t]he ‘3%@50’ retirement plan is being adopted for public safety agencies throughout [California]. This has and will continue to result in additional early retirements for police (and fire) administrators.”²⁷

Brown further believes that

... [M]ore police chief candidates will come from out of state or metropolitan police departments that have a separate retirement system. People who have retired from command positions in other states will fill the void of inadequate numbers of qualified individuals within [California]. This enables the out-of-state retirees to ‘double dip,’ to offset the

²⁴ Hall interview.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

increased housing costs in [California]. Likewise, we will see California police chiefs retiring early and assuming similar positions in other states.²⁸

To be fair, it is important to point out that the 3% at 50 formula did not cause the problem of retirements. These same individuals would still have retired; it would probably just have been a few years earlier. In essence, the 3% at 50 formula delayed the issue of retirements a few years, and kept a significant brain trust within the organizations.

California Police Chief Attrition

There are 336 municipal police chiefs in California.²⁹ California has averaged just over a 10% turnover rate in police chiefs during the past three years.³⁰ According to the California Police Chiefs' Association, it is estimated that the attrition rate will "remain at around 10%, or 35 to 40 chiefs per year. 3% @ 50 generated a significant turn over in the past three years and will probably continue to do so for the next couple [of years]."³¹ With the attrition rate remaining constant for the past three years, and projected to remain steady, in five years (2008) it can be expected that half (50%) of the current police chiefs in

²⁸ Hall interview.

²⁹ Considerable detailed agency information is available on-line at the California Commission on Peace Officer Standards and Training (P.O.S.T.) web site: www.post.ca.gov/employdata/firstpage.htm.

³⁰ Craig Steckler, Chief of Police, Fremont, California, California Police Chiefs' Association, interview by the author (e-mail), 18 March 2003.

³¹ Steckler interview.

California will no longer be serving their organizations as the agency head. This equates to 175 to 200 new police chiefs in California by 2008.

A demographic survey completed in 2001 by the California Police Chiefs' Association found that of the 208 responses by municipal police chiefs, the median age was 50. This means that in 2001, half the sitting police chiefs were already eligible to retire. This is a precarious position to be in, as a worst-case scenario is that law enforcement loses 50% of its executive leadership at one time. This brings us full circle. Will there be enough qualified and willing applicants to fill these vacancies?

California Police Chief Demographic Survey

A demographic survey of California police chiefs was completed in 2001.³² There were 208 responses. Thirty-two percent of the responding police chiefs had employment contracts (63 total), while 68% did not (139 total). Eighty-six percent of the responding police chiefs were considered at-will employees (173 total), while only 14% were not at-will (29 total).

Other interesting data from the survey paints a picture of the face of California police chiefs in 2001:

- 77.4% (159) were in their first chief's job.
- The median age for a chief was 50, with the range being 21 to 61+.

³² California Police Chiefs' Association, *California Police Chiefs' Demographic Survey*. 339 surveys were distributed. 209 were returned. Not every question was answered on every survey.

- The median age first appointed chief was 43.5, with a range of 28 to 58 years old.³³
- The median time on as a police chief was 5.5 years, with a range of 1 to 27 years.
- The median number of years in police work at the time of appointment to the first chief's job was 20.5 years. The range was 4 to 37 years.
- The median total time in policing was 27.5 years, with a range of zero to 46 years.
- 4% of chiefs possessed a high school diploma as their highest level of education. Ten percent possessed an Associates degree, 36% possessed a Baccalaureate degree, 46% possessed a Masters degree, and 4% possessed a Doctorate degree.
- 37% of the chiefs had attended the Federal Bureau of Investigation National Academy. Thirty-four percent attended the California Commission on Peace Officer Standards and Training (P.O.S.T.) Command College. Five percent attended the Police Executive Research Forum Senior Management Institute for Police (PERF/SMIP) training, and 3% attended the California P.O.S.T. Supervisory Leadership Institute. Twenty percent attended other, non-specified training.

³³ The actual age first appointed was 21, however this chief was dropped from the data by the survey author as it skewed the data

- 45% of the chiefs were promoted from within their own agency. Fifty-five percent were promoted from an outside organization.
- 95% of the chiefs were promoted from California agencies. Five percent (9 chiefs) relocated to California for their chief positions.

National Police Chief Survey

The Police Executive Research Forum (P.E.R.F.) completed a similar demographic survey on a national level in 1997.³⁴ This survey was distributed to 518 city and county police chiefs and other non-elected law enforcement agency directors policing jurisdictions in the United States. All had a population of 50,000 or more residents. 358 responses were received. This survey covered topics such as the selection process, benefits, agency data, and individual data.

Of the respondents, 27% (95) had employment contracts. Seventy-three percent (262) did not have employment contracts (1 did not answer the question). There is no distinction between “at-will” and “for-cause” employment.³⁵ It is important to note that the results of this survey may be skewed slightly looking at the rest of the nation without California. This occurs because California chiefs made up the highest percentage of respondents to the survey. California chief responses were nearly double the next state respondents.

³⁴ William E. Kirchhoff, Charlotte Lansinger, James Burack, *Command Performance, Career Guide for Police Executives*, (Washington, D.C.: Police Executive Research Forum, 1999), 205-224.

³⁵ *Ibid*, 211.

Each respondent was asked how many years they planned on remaining at their current chief's job. Three percent said less than one year, 39% said one to five years (1997 to 2002), and 27% said between six and ten years (2003 to 2007).³⁶ This would equate to about a 69% national turnover rate during the ten-year period of 1997 to 2007. Unfortunately, "... longevity remains an achievement of a relatively small number of executives."³⁷ Compounding the problem, experts believe the average tenure of a police chief will decrease further in the future.³⁸

There appears to be a difference between agencies in the East and agencies in the West. In the experience of the International Association of Chiefs of Police (I.A.C.P.), a majority of east coast agencies have offered employment contracts as part of the hiring package.³⁹ In instances where the hiring agency has not offered an employment contract as part of the basic employment offer, the I.A.C.P. has found most agencies are receptive to the idea when it is presented to the employing agency.⁴⁰ Interestingly, some states such as New

³⁶ Kirchhoff, Lansinger, Burack, 221.

³⁷ Sheldon Greenburg, Ph.D., *On the Dotted Line: Police Executive Contracts*, (Washington, D.C.: Police Executive Research Forum, 1992), 3.

³⁸ William Kirchhoff, *Selecting a Police Chief: A Handbook for Local Government* (Washington D.C.: International City Management Association and Police Executive Research Forum, 1999), 141.

³⁹ Kim J. Kohlhepp, Manger, Center for Testing Services and Executive Search, International Association of Chiefs of Police, interview by author, Alexandria, VA, 11 February 2003.

⁴⁰ Ibid.

Jersey⁴¹ and Maryland⁴² provide due process to police chiefs, either through a Peace Officers' Bill of Rights or other legislation.

In terms of recruitment and retention, the International Association of Chiefs of Police has not experienced difficulty in finding quality applicants for their police chief positions. However, the I.A.C.P. has noticed a decline in the quantity of applicants for police chief jobs.⁴³

Employment Contracts

As the studies by the California Police Chiefs' Association, the Police Executive Research Forum, and the California Public Employees' Retirement System have revealed, there have been a number of police chiefs and other senior leaders retiring from their organizations over a short period of time. This rate is predicted to continue into the future. As a result, younger, and in many cases, unqualified individuals are left to fill the police chief vacancies. Consequently, there needs to be a way to entice qualified individuals to fill the vacancies created. While the demands of the police chief job will not change much in the future, some of the periphery concerns can be modified by the use of employment contracts.

⁴¹ Ibid.

⁴² Greenburg, *On the Dotted Line: Police Executive Contracts*, 13.

⁴³ Greenburg, 13.

A contract is defined as an “agreement between two or more persons which creates an obligation to do or not to do a particular thing.”⁴⁴ It creates a “legal relationship consisting of the rights and duties of the contracting parties; a promise or set of promises constituting an agreement between the parties that gives each a legal duty to the other and also the right to seek a remedy for the breach of those duties.”⁴⁵ An employment contract is “an agreement or contract between employer and employee in which the terms and conditions of one’s employment are provided.”⁴⁶

Support for Use of Contracts

A report by the International City Management Association argues “an employment contract is essential because effective local government management requires changes, innovations, and risk taking if public needs and interests are to be served.”⁴⁷ The International City Management Association and the Police Executive Research Forum both believe that the police chief should have an employment agreement similar to a city manager, and for the same reasons.⁴⁸ “The political arena in which the contemporary police chief

⁴⁴ Henry Campbell Black, *Black’s Law Dictionary, Sixth Edition* (Minnesota: West Publishing Company, 1990), 322.

⁴⁵ Black, 322.

⁴⁶ *Ibid.*, 525.

⁴⁷ International City Management Association, *Guidelines for Local Government Managers: Employment Agreements for Managers*.

⁴⁸ William Kirchhoff, *Selecting a Police Chief: A Handbook for Local Government* (Washington, D.C.: International City Management Association and Police Executive Research Forum, 1999), 141.

works is a tumultuous place.”⁴⁹ There are so many influences on the police chief. These include, but certainly are not limited to, city managers and city councils, and other influential parties such as the news media, police unions, media, school officials, and homeowners associations. Half accuse the chief of moving too fast, the other of moving too slow. “Satisfactorily addressing all the agendas of all the local stakeholders can make the long-term survival of a police chief almost impossible.”⁵⁰ Additionally, “[t]here is plenty of evidence that the sacking of police chiefs, which became part of the political routine of the 1990s, will continue in the new millennium. The advent of community-based policing will contribute to this, as more players get to participate in the ‘evaluation’ of the police chief. ... The average tenure of a chief – three to six years – will shrink as more and more people of influence get involved in the subjective evaluation of the chief’s performance.”⁵¹

As stated earlier, the Police Executive Research Forum National Police Chief Survey found that about 75% of the nation’s police chiefs do not have an employment contract, yet most of these chiefs perform “effectively or even surpass expectations. But the argument that these executives could do a much better job if the conditions of their employment were spelled out in a legally binding ‘performance’ employment contract is compelling.”⁵² Additional reasons for the support of the International City Management Association and Police

⁴⁹ Ibid.

⁵⁰ Kirchhoff, *Selecting a Police Chief*, 141-142.

⁵¹ Ibid., 142.

Executive Research Forum in this arena is that “quality police chiefs ... are in short supply. ... The local government manager needs to use the employment contract ... to hire the best and then retain that person over the years.”⁵³

Furthermore, both organizations support the use of a legally binding employment contract because it benefits both the police chief and the employer.⁵⁴ While some at first blush may believe that employment contracts only benefit the employee, every resource, book, article, reference and interview consulted by the author made it clear that an employment contract benefits both the employer and employee. This explains why city management organizations, executive search firms, executive labor organizations, and police chief applicants embrace the concept.

There are disadvantages to employment contracts. One very significant disadvantage occurs when the contract is not used for a legitimate and ethical purpose. Consider some of the issues surrounding the City of South Gate (CA). Over the past year or so, the City of South Gate has been besieged with alleged political corruption. This led to a number of resignations, terminations, criminal charges being filed against a city treasurer, and successful recall elections against the majority of the city council members.

Just a few months before being removed from office, “political leaders in South Gate approved \$2.8 million in severance packages for more than a dozen

⁵² Ibid.

⁵³ Ibid., 143.

⁵⁴ Kirchhoff, *Selecting a Police Chief*, 143.

administrators, promising them 18 months' salary if they were fired and one year's pay if they quit."⁵⁵ The byline to an article in the Los Angeles Times reads, "South Gate's leaders face a dilemma as contracts signed by since-ousted officials promise nearly unheard of benefits if hires quit or are fired."⁵⁶

In South Gate, five officials, including the city manager and treasurer have been placed on administrative leave while the city investigates allegations of misconduct. The treasurer has been arrested for weapons violations and making terrorist threats towards other city officials. Should they be terminated, each will receive severance pay of approximately \$200,000.

According to an interview given to the Los Angeles Times, the president of the city managers' department of the League of California Cities, said that "[t]he South Gate provisions are very unique and used more extensively than I've heard of before."⁵⁷ Furthermore, "[e]xperts in municipal affairs say such separation agreements are almost unheard of. City managers can be given severance packages, but such agreements are rarely given to department heads or managers. Giving checks to people who quit is also extremely rare."⁵⁸

The lesson learned here is not that employment contracts are inherently evil, but that when unethical people with unethical motives craft such contracts for themselves, troubles are almost certain to crop up. In order to avoid such

⁵⁵ Richard Marosi, *Severance Pay Deals Problematic*, The Los Angeles Times on-line, latimes.com, 31 March 2003.

⁵⁶ Ibid.

⁵⁷ Ray Silver, Huntington Beach (CA) City Administrator, interview by Richard Marosi, Los Angeles Times, in *Severance Pay Deals Problematic*, 31 March 2003.

⁵⁸ Marosi, *Severance Pay Deals Problematic*.

problems, the parties must seek the advice of competent and qualified legal counsel.

Generational Impact

There may be a reason why prospective police chiefs are asking for employment contracts on a more frequent basis. While the reason does not appear in literature related to police chief recruitment and employment contracts, it shows up in the research of generational sociologists. In addition, the generational component is also a reason why the use of contracts will be much more important in the future as a tool to recruit and retain police chiefs.

It is generally accepted that the Baby Boomer population includes those individuals born between approximately 1943 and 1960 (some authors place the time frame between 1946 and 1964). The Generation X population includes those individuals born between 1960 and 1980 (some authors place the time frame between 1965 and 1977). This means that, depending on the year one chooses for the beginning of Generation X, the first of the Generation X workforce is now in their early to mid-forties.

As discussed in the California Police Chiefs' Association survey, the median age for a police chief to be appointed in California (as of 1991) is 43.5 years old.⁵⁹ On a national level, in 1997, 13.7% of the police chiefs were between the ages of 41 and 45. Thirty-six and nine-tenths percent of the police

⁵⁹ California Police Chiefs' Association, "California Police Chiefs Demographic Survey", Chief Steve Krull, Oakdale Police Department, July 2001.

chiefs were between 46 and 50 years old.⁶⁰ When the median ages of the police chiefs is compared to ages of the generational groups, the data indicates that Generation X has begun to fill the police chief ranks and will continue to do so well into the future.

There is a considerable difference in the way that the Generation X employee views the world and the way a Baby Boomer views the world. Whereas the Baby Boomers' outlook is optimistic, the Generation Xer is skeptical. The Boomer work ethic is driven, and the Generation Xer is balanced. The Baby Boomer has a love/hate relationship with authority, while the Generation Xer is unimpressed by authority. The Baby Boomer generation sees leadership by consensus, the Generation Xer views leadership based upon competence. Importantly, where the Baby Boomer sees the world of professional relationships in terms of personal gratification, the Generation Xer is reluctant to commit.⁶¹ Where and how did this reluctance to commit develop?

Gen X's collective psyche was to be shaped by a survivor mentality and can be summed up by the question, 'Just tell me, is this going to be on the test?' ... The question really means, 'What does this have to do with my survival?' They sensed early that no one was going to hand hold them, so they must take care of themselves."⁶²

This self-reliance is due, in part, to two main reasons. First, the Generation Xer were the most attention-deprived, neglected group of kids in a long time. Parents were absent without leave for two reasons. First, nearly half of their parents' marriages ended in divorce. ... Second, this was the first generation of kids within the bounds of the two-income family.

⁶⁰ Kirchoff, Lansinger, Burack, *Command Performance, Career Guide for Police Executives*, 219.

⁶¹ Ron Zemke, Claire Raines, Bob Filipczak, *Generations at Work* (New York: American Management Association Publications, 2000), 155.

⁶² *Ibid.*, 94.

... This one-two punch created a new sociological trend: latchkey kids. They became accustomed to being alone, yet feelings of abandonment shaped their psyches.⁶³

This early development and sense of self spills over into the work ethic of the generation.

... Generation X learned that work is no guarantee of survival, that corporations can throw you out of your job without warning, logic, or even an apology, and that entry-level work is often mindless, dull, and exhausting.

They're not likely to change their perception. Just as a child's early years determine his or her personality, early work experiences permanently shape workers' attitudes about corporate culture.⁶⁴

This is illuminating, as it begins to shed light on one possible reason the use of employment contacts has been growing, and its use is predicted to continue to grow into the future. The understanding of this factor plays a key role in understanding relationships with police chiefs and/or prospective police chiefs. This is especially true in the situation where a city manager and/or city council made up from the Baby Boomer or Veteran generations must recruit, select, retain and supervise a Generation X police chief.

As the profession travels into the future, there will be a significant attrition of police chiefs and other police leaders. Organizations have been finding themselves in a position where finding quality candidates to fill the police chief rank is easier said than done. In some cases, organizations are forced to settle on their second or third choice for a police chief.

⁶³ Ibid., 98.

⁶⁴ Zemke, Raines, Filipczak, 111.

These factors have occurred for a number of reasons. The increased benefits provided by the California Public Employees' Retirement System has led to an increase in the number of retirements. The reluctance of qualified employees to step up to the police chief rank for personal reasons has left a void where once people scrambled to become a police chief. The movement of the Generation X employee into the ranks of senior police leadership has created an environment that is considerably different than it was just ten years ago, when the vast majority of police leaders were Baby Boomers.

One cannot expect that the police chief job would become less stressful and/or less political in the future. On the contrary, the state of California is facing a serious budget crisis. The state of California has proposed measures of balancing the state budget on the backs of municipal government that, if passed, will have some of the most devastating impacts municipal police agencies have ever experienced.⁶⁵ These come in the form of possible reductions in the COPS grant program, reduction of booking fee subventions, elimination of allocations for technology acquisitions,⁶⁶ and elimination of the vehicle license fee set-off.

These are serious issues facing California law enforcement, and they require serious leadership. A need exists to draw the most qualified candidates into the police chief ranks in order to confront and resolve these serious issues while moving the organization forward into the future. The use of employment contracts may be one way to accomplish this goal.

⁶⁵ California Police Chiefs' Association, Bob McDonnell, *The State Budget and Public Safety*, a letter to all members of the California Legislature, 29 May 2002.

⁶⁶ Ibid.

There are a number of possible trends and events that could occur, or have already occurred, that may influence the use of employment contracts as a way to affect police chief recruitment. The next chapter will explore these trends and events in detail.

CHAPTER TWO

FUTURES FORECASTING

In Chapter One, the issue of how employment contracts could affect police chief recruitment by 2008 was explored. The facets of attrition, police chief recruitment, demographics, apathy, the California Public Employees' Retirement System, and generational differences were covered. In this chapter, a number of trends and events that could impact the issue are projected into the future. These trends and events are analyzed and evaluated. The impact of the possible events is analyzed to determine the impact they could have on the projected trends. Finally, three possible future scenarios are developed. One scenario is optimistic, the other pessimistic, and the third is normative.

A focus group was assembled to participate in a Nominal Group Technique (NGT) in April, 2003. The goal of the Nominal Group Technique was to identify trends and events that could have an effect on the use of employment contracts as they may affect police chief recruitment. The panel consisted of: a retired police chief who is currently working as a chief under contract; an executive recruiter from a national firm; an attorney who specializes in public sector labor and employment law; a municipal personnel analyst; a leadership and career coach retired from the ministry; a vice-president of a large corporation; the owner of a family owned small business that has been thriving since the 1950s; the superintendent of a school district; and a municipal police lieutenant. The author served as a facilitator to generate discussion and push for

agreement. The author did not contribute to the generation of data during the Nominal Group Technique process.

Trends

A trend is defined as a social, technological, economic, environmental or political characteristic estimated or measured over time. A trend is a general direction of change, either gradual and/or long term.

The panel was briefed about the process, issue, background and history. Once an understanding was reached, the panel proceeded to brainstorm in an effort to develop as many trends as possible that may impact the issue. The panel identified fifty-nine trends. All fifty-nine trends are listed in Appendix Two. Through a selection process, the fifty-nine trends were pared down to the ten trends the panel felt were most critical.

Utilizing the ten trends, each panel member was asked to individually identify where the trend was five years ago, and then forecast the direction and magnitude of the trend five and ten years into the future. The panel was instructed that the trend level today was assigned an arbitrary number of 100. Thus, if the trend was lower than it is today, the number assigned would be less than 100. If the trend was higher than it is today, the number would be greater than 100. The magnitude of the trend is identified by how large or small the number assigned was.

The panel was asked to individually identify the level of concern for each trend. Since it would not be possible to monitor every trend, the panel was asked

to identify what trends were most important to monitor today (not necessarily the most important trend, just the most important to monitor), relative to the issue.

The panel did so by assigning a value from one to ten, with one being the least important to monitor, and ten being the most important to monitor.

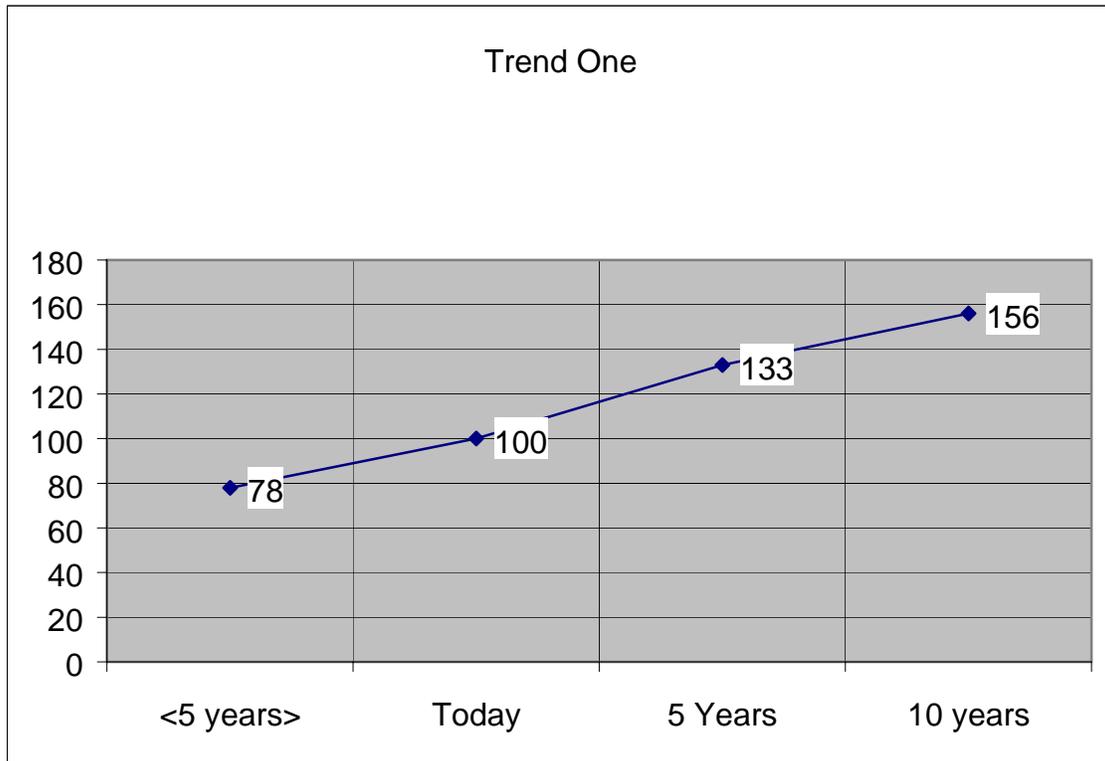
After the panel members shared and discussed their data with the group, each trend was assigned the mean value. The data is summarized in the following table.

TREND SUMMARY TABLE

TREND	-5 YEARS	TODAY (100)	+5 YEARS	+10 YEARS	CONCERN 1-10
T1: Average level of education of a Chief	78	100	133	156	5
T2: Level of pay for a Chief position	88	100	127	142	6
T3: Influence exerted by labor unions	90	100	116	125	6
T4: Rights of peace officers provided by law to chief	84	100	114	125	5
T5: Desire to stay in the #2 rank and not promote	75	100	125	140	9
T6: Benefit package provided to a Chief	85	100	134	161	7
T7: Number of applicants for a Chief vacancy	114	100	97	108	7
T8: Quality of the community the Chief works for	89	100	118	141	4
T9: Existence and use of a succession plan	80	100	130	141	6
T10: Chiefs' experience with a diverse community	78	100	134	153	4

Trend One

Average Level of Education of a Chief (or senior manager)



The average level of education of a chief of police or senior manager was viewed as an important trend. While this trend is predominately related to formal education, the panel also discussed executive development programs as part of this trend. Examples include Command College, the Federal Bureau of Investigation National Academy, and the Police Executive Research Forum Senior Management Institute for Police.

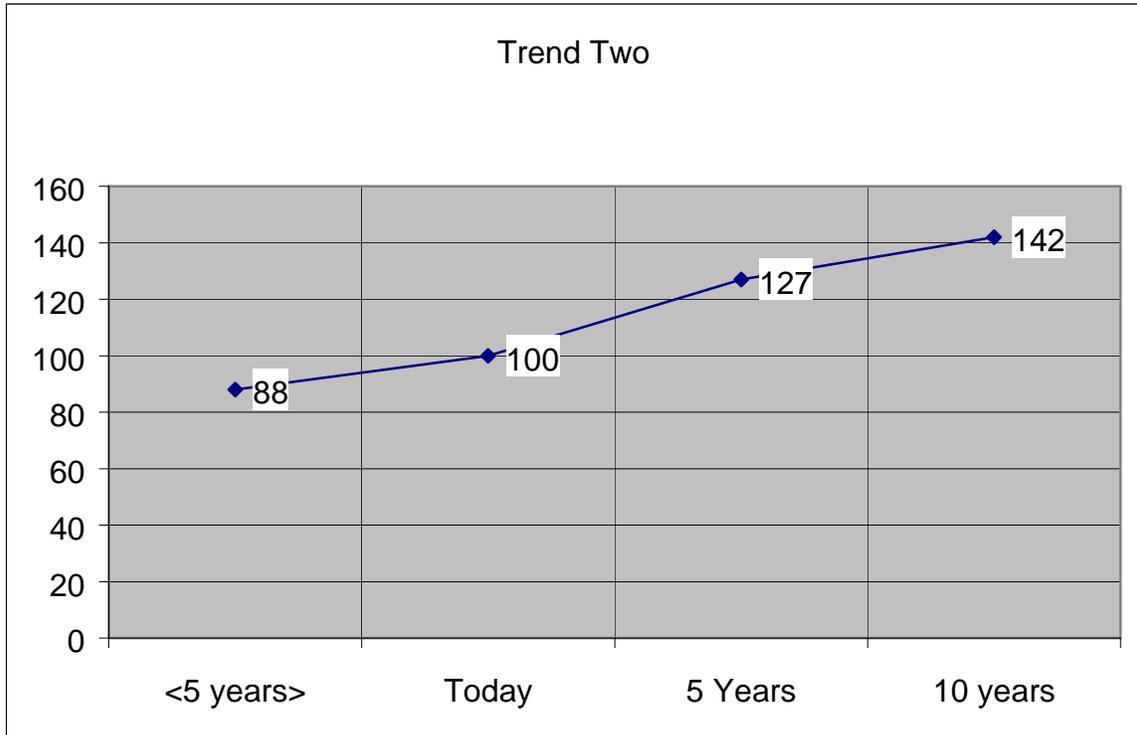
The panel unanimously believed that in the past, the level of education level was not as critical as it is today. Furthermore, the panel unanimously

believed that education will become increasingly important in the next five and ten years. Some believed that the average level of education required would more than double within the next ten years.

This trend was rated as a five as an area of concern, with a range of one to eight. While all panel members agreed that education was a vital component of police chief recruitment, some panel members did not believe it was critical to monitor. One of the reasons given for not monitoring this trend was that the level of education was “resolving itself” as it increased. Another member stressed that this trend must be discussed and reinforced with entry-level personnel as part of early career development.

This trend projection is consistent with the research conducted for this project. Education, both formal and through executive development programs, will likely become the standard for the future. While in the past, a baccalaureate degree was acceptable; the author believes that, if not already the case, within the next few years, a Baccalaureate degree will be the bare minimum to be a chief or manager.

Trend Two
Level of Pay for a Chief Position



Police chief positions in the future may be difficult to fill for a number of reasons. This particular project looks not only at police chief recruitment on the broader sense, but narrows the focus by examining the issue in terms of the use of employment contracts. However, the overlying theme is still recruitment. The panel viewed pay (as well as Trend 6 – Benefit Package) to have a significant impact on police chief recruitment. If the premise holds true – that there will be difficulty in filling police chief vacancies with qualified candidates because those prospective candidates desire to stay at the number two position, then something needs to be done to lure the candidates into the top executive rank. While

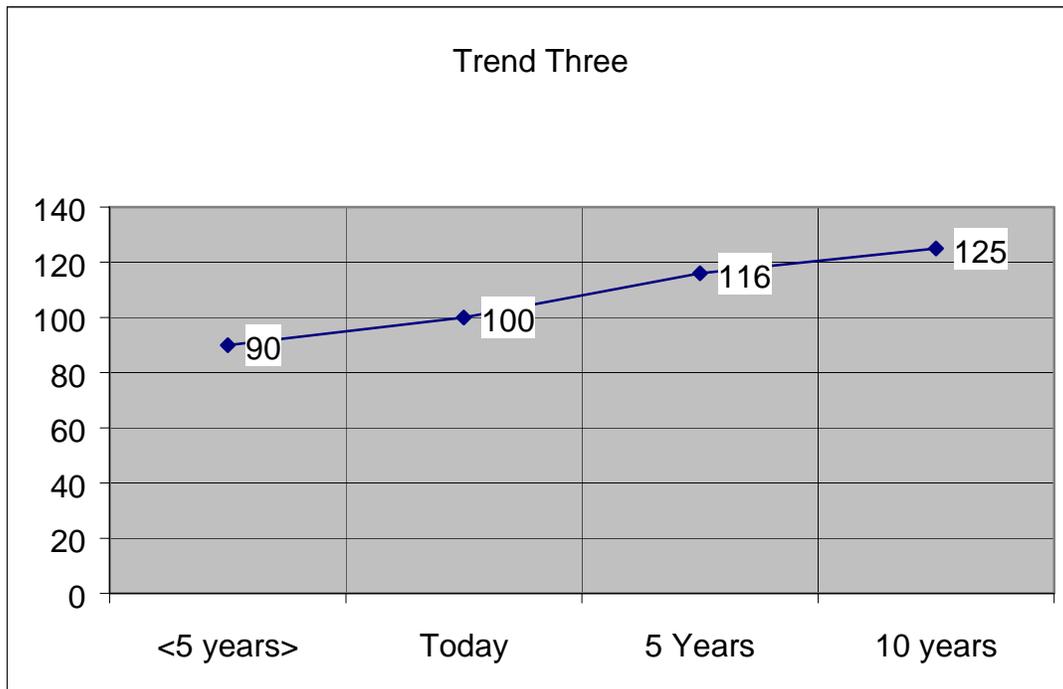
employment contracts are one such mechanism, certainly pay and benefits must be another.

While there was some minor disagreement between the panel members in terms of where the level of pay was five years ago, the majority felt it was lower then than it is today. Three of the nine members believed it was the same or higher than it is today. Projecting five years into the future, some believed the level of pay would remain at the same level it is today, while others see an increase.

Overall, the panel believed the level of concern was a six out of ten. The panel believed that this trend is important to monitor because of the impact it could have on the issue. Several panel members rated the concern at a two or three, believing that the level of pay is “easy to change” if it becomes an issue, while others believed the level of pay was market driven, and thus not a concern. Another panel member pointed out that if the chief’s level of pay remains low, it impacts the rest of the organization through such issues as salary compaction. This in turn could have an impact as employees in the organization consider the first move from supervisor (typically paid hourly, with overtime benefits) to management (typically paid salary).

Trend Three

Influence of Labor Unions in Police Chief Recruitment



The panel believed that labor unions generally had slightly less influence than they did five years ago, and in the future, their influence will only increase slightly. It appears that the bigger and better funded a labor union is, the bigger the influence it can exert. For example, the Los Angeles (CA) Police Protective League endorsed James Hahn as Mayor in 2001. The overriding reason given was that James Hahn would give the League an alternative work schedule the Union had been asking for for many years. The Los Angeles Police Department management had refused to provide the schedule due to concerns it would have

on the organization. It is the general consensus that the influence exerted by the League was instrumental in getting Mayor Hahn elected. The League has also been outspoken and influential to some extent in police chief recruitments, but more so in criticizing existing chiefs. The last several police chiefs did not have their five-year contracts renewed for a second term, arguably due in part to pressure by the union.

Some on the panel believe the influence of labor organizations will decrease; some even say the influence will “decrease dramatically.” The reason offered is that labor union influence tends to “swing like a pendulum,” and right now one panel member believed it has swung too far to the influential side. Like most cyclical trends, this panel member believed the pendulum swing back in the other direction over the next five or ten years.

This trend can be a double-edged sword. For example, a strong, dissenting and argumentative union could scare some candidates away, making recruitment more difficult. Other candidates willing to either stand up and fight, or seek to negotiate a common and mutually beneficial agreement between labor and management may view this as an opportunity. These individuals might see this as a challenge waiting to be undertaken and will be drawn to the agency.

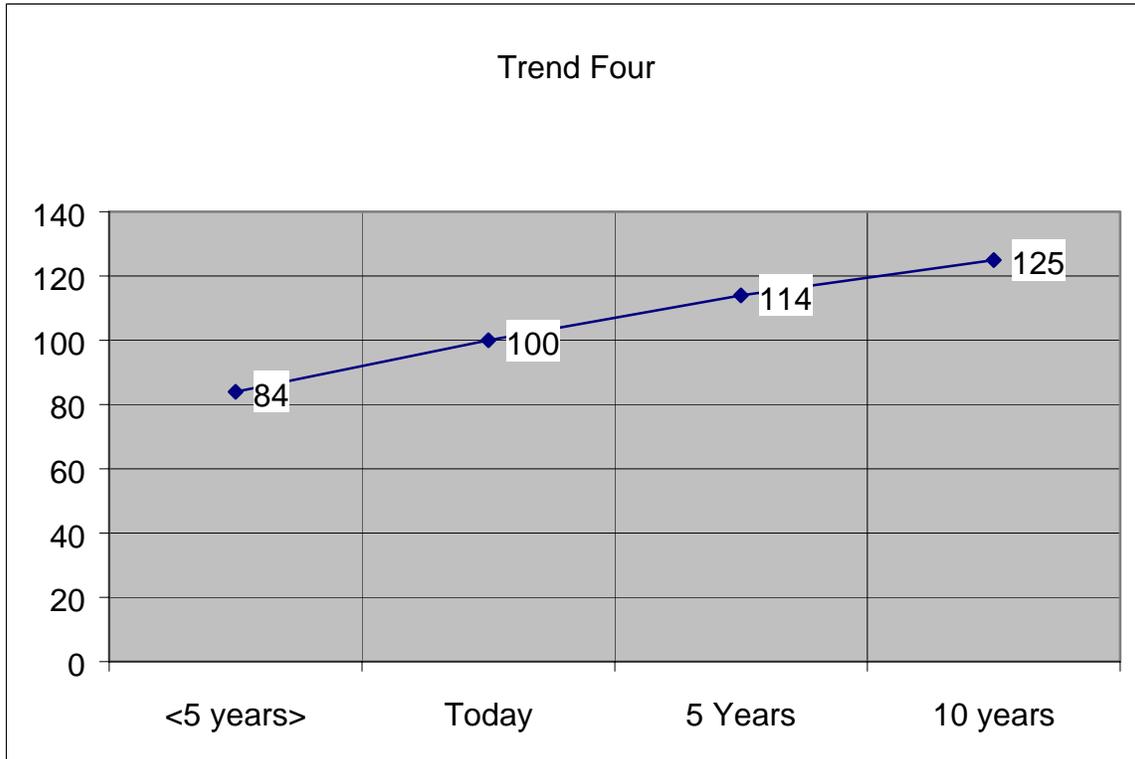
It is important to note that unions may provide a benefit to prospective chiefs. In the author’s own agency, a chief retired in 1998 as the lowest paid chief in Orange County, by a significant margin. The union approached City management with the concern that in order to attract qualified applicants, the City would have to increase the pay and/or benefits. Due to a number of reasons,

including the unions' position, the current chief was hired at a salary that placed him near the top in the county.

In summary, labor unions could have a positive or negative effect on police chief recruitment well into the future, and this is a trend worth monitoring.

Trend Four

Rights of Peace Officers Provided by Law Extended to Chief of Police



This trend refers to rights of peace officers, which are provided either by statute or court decision. The most common example is the California Peace Officers' Bill of Rights, codified in California Government Code §3300 et. seq. There was much discussion about this trend, and a significant amount of disagreement. Simply selecting this trend as one of the top ten trends sparked debate.

If a local agency were to provide these rights (technically, more of the substantive due process rights as opposed to the procedural process already afforded to the chief during disciplinary investigations) to a police chief, some

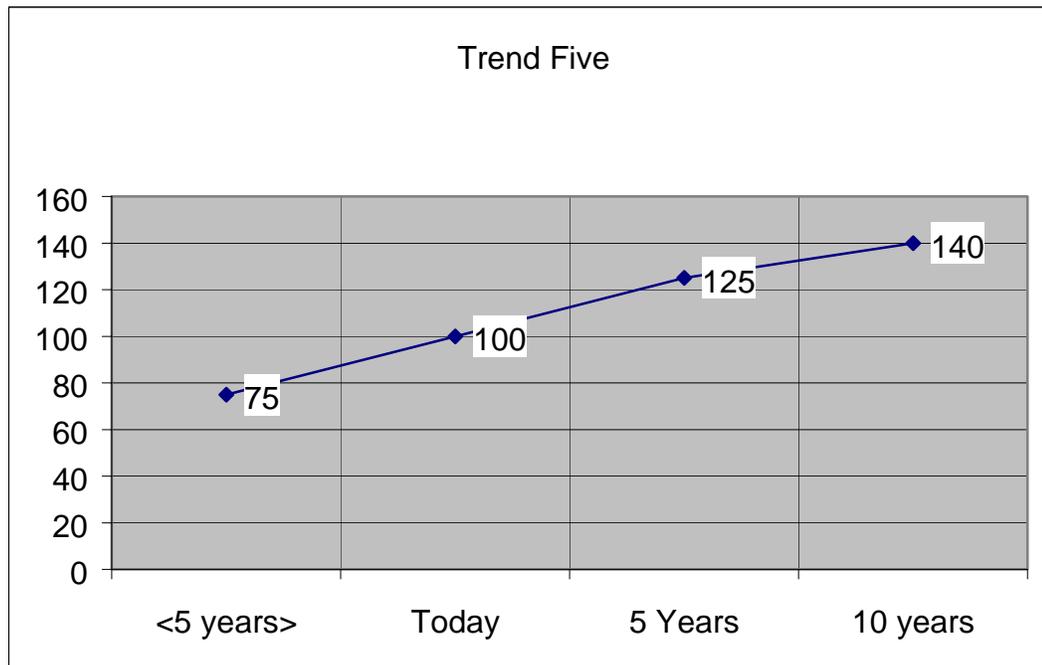
panel members did not think there would any impact on the issue of employment contracts and police chief recruitment. The reason given was that the Peace Officers' Bill of Rights primarily related to internal investigations, and was thus not germane to the issue at hand. Of course, this ignores the substantive and procedural due process rights afforded by the 14th Amendment of the United States Constitution that are built into the Peace Officers' Bill of Rights. There seemed to be a dividing line on this issue between those on the panel with a legal or peace officer background, and those without one.

Ultimately, the panel believed that the "rights" afforded to a Chief of Police has increased since five years ago, and will continue to increase into the future. There were some panel members that believed these rights have been declining, and will continue to decline, from a "100" today, to a "60" ten years from now. The panel believed this trend rated the level of concern five out of a possible ten.

Interestingly, the discussions and trend table summary data for this trend were very similar to Trend 3, Influence of Labor Unions.

Trend Five

Desire to Stay in the #2 Rank and Not Promote to Chief of Police



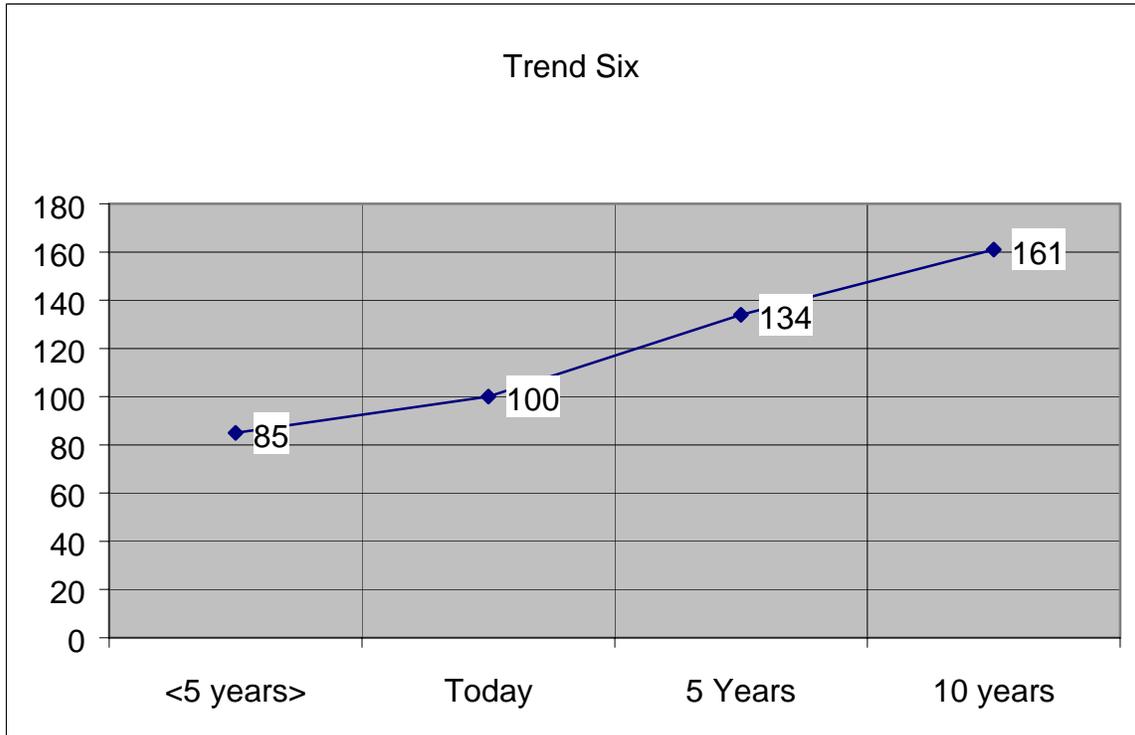
As discussed in detail in Chapter One, there is a concern that a large number of otherwise qualified individuals will remain in the #2 rank in an organization, and shy away from promoting to police chief.

Of particular note on the trend table summary, the mean for five years ago was the lowest of all ten trends. In the next five and ten years, the panel believed this trend will continue at a rather steep upward slope. The reasons provided by the panel are similar in nature to the issues addressed in Chapter One.

The panel rated the concern of this trend at a nine out of a possible ten. This was the trend with the highest level of concern of any of the trends. The panel believes this trend could have a significant impact on the issue of police chief recruitment and the use of employment contracts. The reason given by the panel was that if qualified applicants do not wish to step up into the chief ranks, there must be some new way to entice them to do so. The use of employment contracts might just be that way.

Trend Six

Benefit Package Provided to Chiefs of Police



This single trend is really a compilation of a number of trends identified by the Nominal Group Technique panel dealing with pay and benefits. These various have been consolidated under the single heading of Benefit Package. The specific trends identified by the panel include the disparity of contract benefits provided to chiefs and prospective chiefs from agency to agency. The ability of a city of pay for benefits, and the associated hard and soft costs were other identified trends, as were the specific benefits such as payment for relocation costs in order to draw candidates from a wider geographic area, and alternative forms of compensation. The final trend consolidated into Trend 6 was

the “level” of contract benefits, referring to both the qualitative and quantitative benefits provided, and the variances between different organizations.

The panel discussion for this trend was similar to that of Trend 2, Level of Pay. Some panel members who rated this trend high believed that more and more, the public sector is taking note of the private sector, and demanding some degree of acceptable parity. On the other hand, a panel member who rated this trend low in the area of concern (three out of ten) believed that the benefit package (including salary) may be cut in the future instead of rising. Another concern raised by the panel was that we may see increasingly more issues arising from salary and benefit compaction between chiefs, management, supervision, and line-level employees that will have to be addressed in the future.

Another panel member discussed that in today’s electronic age, salary, benefits, and comparisons are available on-line. In fact, the entire City of South Gate contracts provided to the top city management staff discussed in Chapter One is available on-line for anybody to view.⁶⁷

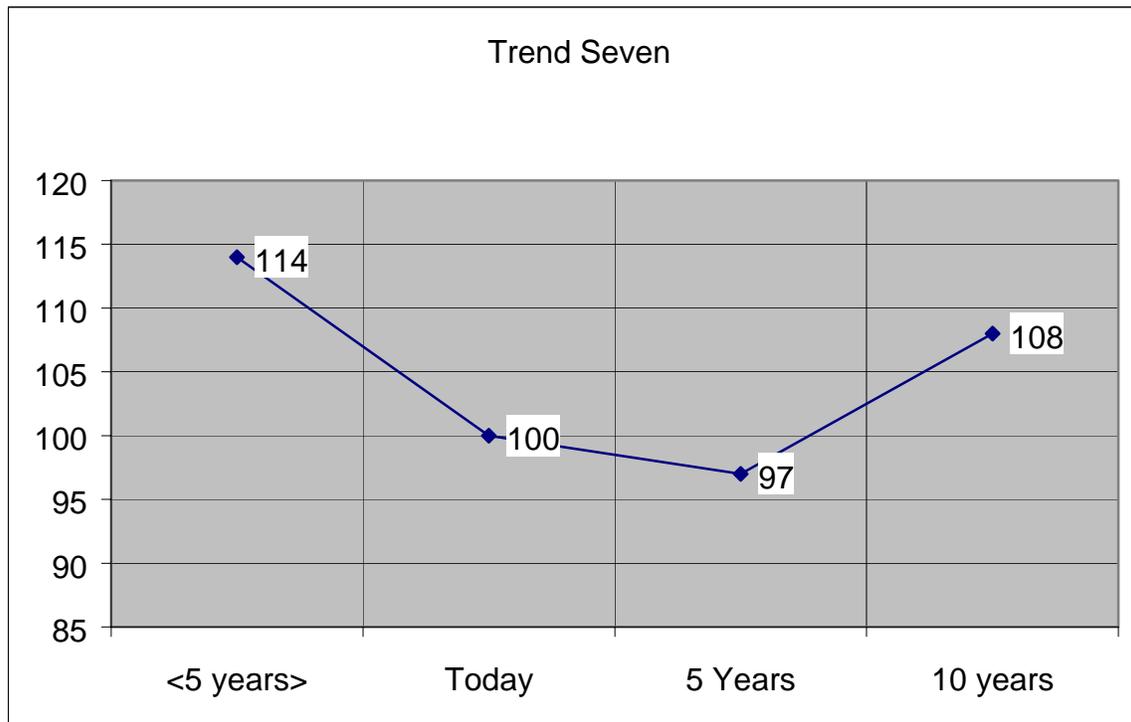
This trend had a relatively high level of concern among the panel members. It was rated a seven out of ten.

The bottom line is that there needs to be an incentive for otherwise hesitant, yet qualified applicants to step into the police chief rank. Pay and benefits are one possible incentive, and both can be negotiated into an employment contract.

⁶⁷ www.cityofsouthgate.org/ccagendas/01ccagendas/06-12-01.pdf.

Trend Seven

Number of Police Chief Applicants for a Vacancy



This trend relates to the simple number of applicants for a given police chief recruitment. The panel believed that there were slightly more police chief applicants five years ago than there are today, and that there will be slightly less applicants five years from now. However, the trend reverses itself slightly in ten years and begins to rise just above today's level. The mean was 108 for ten years, however the median was 100, the same as it is today. In other words, the panel believes that there will not be much change in the number of applicants

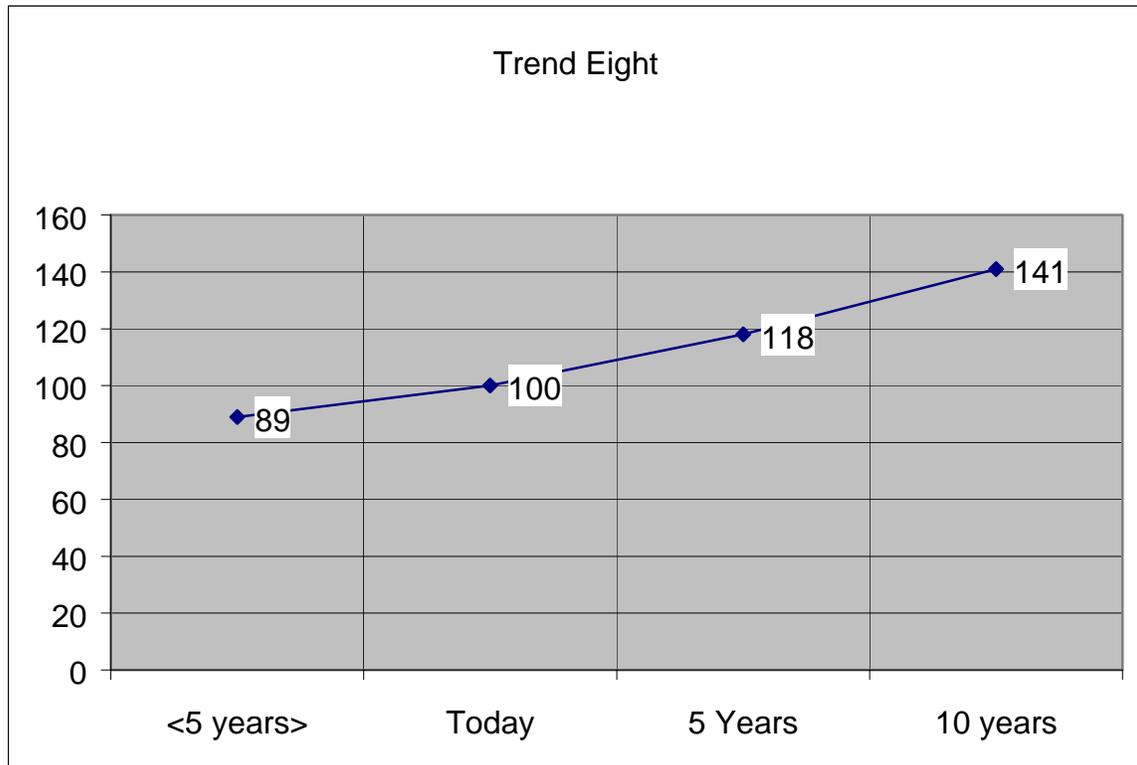
over the next ten years. Many of the reasons given are addressed in detail in Chapter One of this project.

A significant concern with this trend remaining steady over the next ten years as projected by the panel is that we know the number of retirements is going up. If more and more senior managers are leaving the organization, yet the number of applicants remains steady, we can extrapolate that the tenure and experience of the applicants may be decreasing. While this author believes that leadership is not synonymous with tenure and experience, it does point out the need for proper coaching, mentoring and training of those individuals in the organization who have been identified as future leaders. One panel member who has a significant amount of experience in this area shared that in his experience, not only the number of applicants has declined, but so has the overall quality of the applicants. This is probably one of the reasons the panel also selected Trend Nine – Succession Planning, discussed below, as one of the top ten trends.

Overall, the panel rated the concern level of this trend to be a seven. This was the second highest concern of all the trends to monitor in the future.

Trend Eight

Quality of the Community the Chief Works For



The “quality” of the community included a significant number of socioeconomic factors. These included such items as the school districts, the state of repair of public facilities, streets, and parks, the concern the community has about its own infrastructure and perceived “quality of life,” and so forth.

The panel believed that the quality of the community is becoming an increasingly important factor in police chief recruitment. The panel further believed this trend may be the “tipping point” upon which a highly qualified chief bases his or her decision about what city to work for. Furthermore, the quality of the community was viewed as an important recruiting tool. The example given

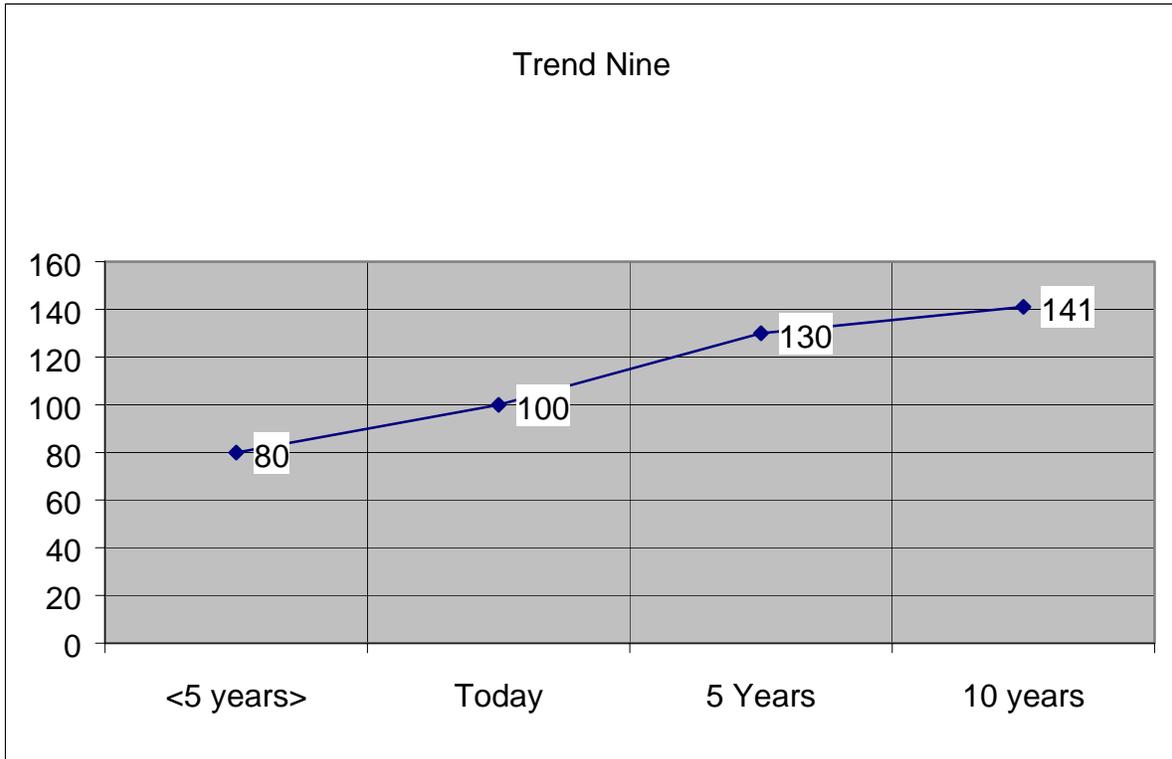
was that if all else were equal between two jobs, a chief applicant would likely lean towards a community with a higher quality of living, especially if there was a residency requirement with the new position.

The panel members rated this trend concern across the entire spectrum, from a one (lowest) to a ten (highest). The mean was four. One member gave a low number because he or she believed that there was not much that could be changed about this trend in the short term. While this panel member believed the municipality could improve services in five or ten years, it would be difficult to change the “demographics” of the community.

Other panel members that rated this trend a high level of concern believed that the quality of life could have an impact on the use of employment contracts and police chief recruiting because applicants would consider the quality of the community when deciding which organizations they chose to submit applications with. This was especially important as the pool of qualified candidates shrinks.

Trend Nine

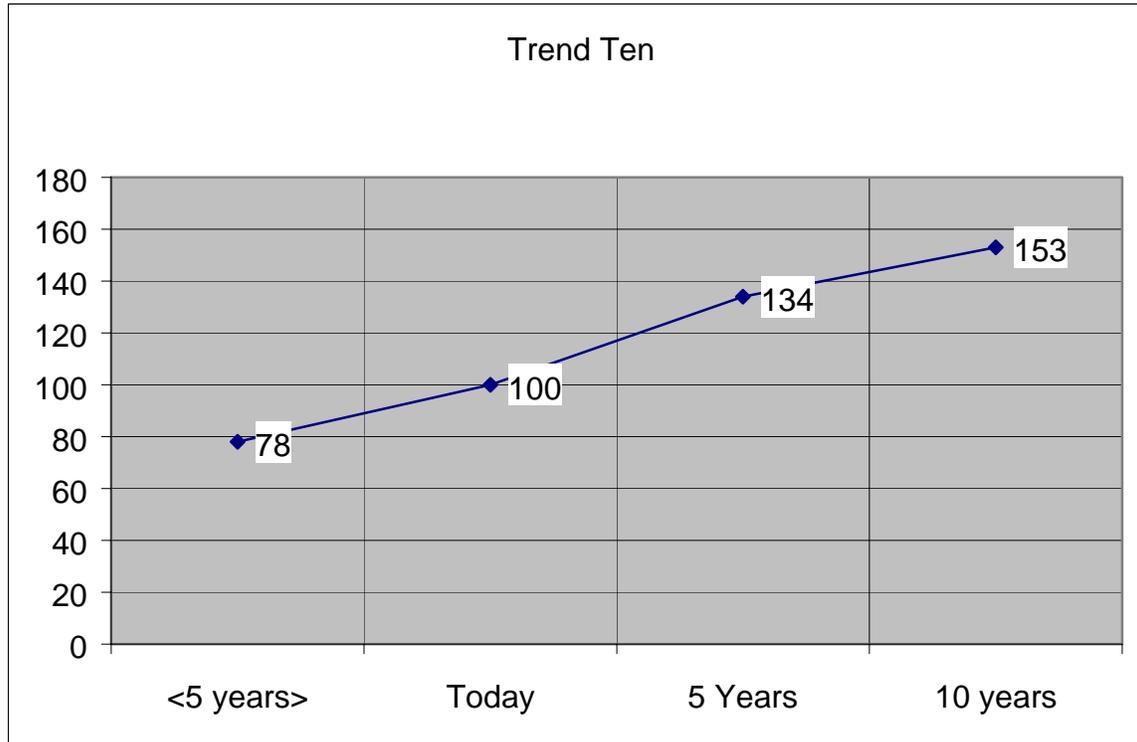
Existence and Use of a Succession Plan



The panel believed that many organizations utilize written succession plans. Further, the panel believed the trend of more and more agencies creating and utilizing succession plans will increase over time. The existence and use of a succession plan could not be overstated amongst the panel members. In the broad sense, this project is about police chief recruitment. The linchpin to police chief recruitment must be a qualified applicant pool to draw from. The applicant pool will not be qualified unless organizations properly prepare and develop personnel.

Trend Ten

Chief's Experience with a Diverse Community



This trend is about a chief's, or prospective chief's, experience in dealing with a variety of cultures and socioeconomic climates. As the panel pointed out, society is becoming more diverse each year, and the ability of a chief to deal with the changing society will be critical. There was a wide variance of concern on this trend, ranging from one to ten, with a mean of four. One panel member pointed out that as a chief or prospective chief looks to move up to a larger agency, the experience needed in dealing with a diverse community increases exponentially.

Events

An event is defined as an unambiguous, confirmable occurrence, or a single isolated incident. Events may be trend-based.

The panel was asked to brainstorm a number of events that could impact the issue. The panel identified thirty-six events. The panel was asked to narrow the number of events to ten, which occurred through a vote process. All thirty-six events are listed in Appendix Three.

Once the ten events were identified, the panel was asked to individually identify how many years from today the event could first possibly occur. For example, if the event could occur in one year, the number would be “one.” If the event could not occur for four years, the number would be “four.” The panel was then asked to individually estimate the probability in terms of a percentage that the event could occur within five years from today, and within ten years from today.

Finally, the impact of each event was analyzed in terms of our ability to address the issue, should the event occur. This impact was assigned a numerical range of between a negative ten and a positive ten. A negative number reflects a negative impact, and a positive number reflects a positive impact. The higher the number, the stronger the impact will have on the issue.

At the conclusion of the Nominal Group Technique, the data was collected and analyzed. Due to a wide range of values, the median response is provided in the event summary table below.

EVENT SUMMARY TABLE

EVENT	YEAR >0	+5 YEARS	+10 YEARS	IMPACT
E1: Supreme court rules all employment contracts invalid	3	0	0	1
E2: Significant terrorist attack occurs impacting the agency	1	80%	100%	6
E3: Significant internal scandal occurs in an organization	1	60%	95%	4
E4: Legislation allows for civilians to become police chiefs	4	10%	45%	8
E5: Appointment of a new city manager for a municipality	1	75%	90%	0
E6: State eliminates funding for law enforcement agencies	1	50%	75%	-1
E7: Municipal agency folds and city contracts with Sheriff	2	7%	20%	0
E8: Long tenured police chief leaves his/her organization creating term limits	1	15%	45%	5
E9: No qualified personnel submit applications for chief vacancy	1	0	0	8
E10: P.O.S.T. changes requirements for police chief	5	20%	40%	5

Event One: Supreme Court Decides Employment Contracts Are Invalid

If this event were to occur, the issue of employment contracts effecting police chief recruitments becomes moot. The author notes that while the panel discussed the Supreme Court (either state or federal), the event could apply to an appellate court decision as well.

The majority of the panel believed that while there is always a possibility of the court rendering such a decision, in reality the chances of this occurring are so remote that the median percentage for five and ten years from today are zero

percent. For comparison purposes, the mean for five years was one percent, and the mean for ten years was six percent. The panel believed that organizations have a very limited ability to impact this issue. Our ability would be limited to either appealing a case, or the filing of an amicus brief.

Event Two: Significant Terrorist Attack Occurs Impacting the Local Agency

The panel believed this could occur as early as within the next year, and the median probability of such an event occurring within the next ten years is one hundred percent.

The question posed to the panel was how this event relates to employment contracts effecting police chief recruitment. The panel believed that if such an event were to occur, and the police chief was to handle the situation correctly, the impact would be significant. This impact would extend beyond the chief to others in the organization, and would make their “market value” increase tremendously. An example from the public sector would be former New York City Mayor Rudolph Guliani after the September 11, 2001, World Trade Center attack.

This was the reason the impact was given a positive number, when the underlying event is certainly negative in nature.

Event Three: A Significant Internal Scandal Occurs Inside the Organization

This event could be a major sexual harassment case, narcotics stolen from the department, or criminal behavior by a police officer.

The panel believed this event could occur at any moment, and there was a 95% probability the event would occur within ten years from today. The panel believed this could have an impact on the ability of the organization to recruit qualified candidates, and could effectively prevent the current chief from moving to a larger organization.

Some panel members believed that the organization could do a lot to prevent scandals from occurring. Such actions could include a system of audits and inspections, proper supervisory and management control, a good performance appraisal system, the tracking of complaints and uses of force, and so forth.

Some panel members believed that this event would have a negative impact on the issue statement due to the difficulty in recruiting a chief after such a scandal. An example might be the 1998 Tyisha Miller shooting in Riverside, California (though the author would not consider this an “internal scandal,” it nevertheless had a significant impact.) The New York Times article discussed in Chapter One that Riverside was one of the agencies that “have had difficulty recruiting” for a new police chief.⁶⁸ The author suspects the Tyisha Miller shooting and aftermath were a factor in this difficulty.

Other panel members believed that this event would have a positive impact on the issue statement because it might cause a municipality to offer an employment contract as a way to attract qualified candidates to an organization that otherwise might have difficulty.

⁶⁸ Fox Butterfield, *City Police Work Losing Its Appeal and Its Veterans*, The New York Times on the Web, 30 July 2001.

Event Four: Legislation is Passed Which Allows Civilians to Become Chief of Police

The legislature could modify or eliminate the law that would allow a civilian, such as the Chief Executive Officer of a major corporation, or a military officer, to become a civilian Chief of Police.⁶⁹ There are two reasons why this might occur. First, California municipal agencies could possibly encounter such a difficulty with recruitment and retention of qualified police chiefs that another pool of applicants might be needed. Second, there could be specific problems within an organization for which a civilian Chief Executive Officer or military officer may have the proven record of accomplishment to address. Civilians such as Jack Welch of General Electric, or Lee Iacocca of Chrysler are good examples of civilians who have made a remarkable organizational turn-around.

The panel did not believe that is such a remote possibility. In fact, the panel believed the probability this would occur within ten years is 45%, with it being possible to occur as soon as four years from today. The panel further believed that law enforcement could have a significant impact on the event through the political and lobbying processes.

The occurrence of this event could add some interesting dynamics to an organization. First, a promotion to chief naturally causes a string of promotions. It may not occur within the same agency if the chief promotes from outside, but it will occur in the organization from which the chief came. Bringing in a civilian would not have the same impact on promotions.

⁶⁹ California Penal Code §832.4(c).

Second, most sworn officers have difficulty accepting direction from civilian supervisors. Compounding the problem is the frequent resistance to change that so often occurs within public safety organizations. This event would be a significant paradigm shift for traditional municipal law enforcement agencies.

Finally, there is an amazing amount of leadership talent in the public and military fields. While the change would be difficult, it could be very beneficial to our organizations.

Joel Barker writes that the person who changes our paradigms will “probably be someone who is an outsider. Someone who really doesn’t understand the prevailing paradigm in all its subtleties (sometimes they don’t understand it at all!).”⁷⁰ The civilian Chief Executive Officer happens to fit this bill.

Since the private sector is much more accustomed to offering employment contracts to top corporate executives, Legislation and the resulting appointments of civilians could expand the use such contracts.

Event Five: Appointment of a New City Manager

The appointment of a new city manager affects the issue of recruitment and contracts as a result of this positions’ key role in both. The panel recognized that city managers, like police chiefs, are not necessarily committed to remaining at any particular city for their entire careers. The appointment of a new city manager brings in new changes. This change could impact a police chief by

⁷⁰ Joel Arthur Barker, *Paradigms, The Business of Discovering the Future* (New York: HarperCollins Publishers, 1992), 55.

either making the incumbent police chief desire to stay with the organization, merely be satisfied with his or her new city manager, or seek employment elsewhere.

Event Six: State Eliminates Funding for Local Law Enforcement Agencies

States are currently reducing funding to local law enforcement agencies, which parallels the cyclical expansion and contraction of the general state and national economy. At some point in time when the economy moves into an expansion, funding should be restored to local agencies. However, there is an expectation that future downturns will invariably occur, and funding will once again be cut. There may come a time when the state eliminates funding for law enforcement agencies, and requires local municipalities to fund the agency based solely on local revenue.

The panel suggested that it might be difficult for a chief to obtain an employment contract during hard economic times, and might be difficult for municipalities to attract qualified chief applicants if funding to their police departments are reduced. In the event funding is eliminated, municipalities could have an even more difficult time recruiting police chiefs, as the city is forced to determine how and where to make appropriate cuts and reallocation of revenue.

Event Seven: Local Law Enforcement Agency is Disbanded, and Police Services are Obtained by Contract from the County Sheriff

This event has an obvious impact on the issue. If there is no police department, there is no police chief, thus no recruitment and/or use of employment contracts. As a result, the issue becomes moot.

The panel believed that there is a 20% probability this could occur within 10 years. Interestingly, part of the decision for this to occur rests with the occurrence of other events listed herein. For example, a terrorist attack in which the local agency is overwhelmed and/or performs poorly, a significant scandal drives the community to push to eliminate the department, a new city manager desires to go in such a direction as a cost savings mechanism, or funding becomes increasingly scarce due to funding cuts by the state. All could be the impetus towards folding a police department.

Event Eight: Municipality Implements Police Chief Term Limits

There are a number of police chiefs who have been in their positions for more than two decades. In fact, one respondent to the California Police Chiefs' Demographic Survey has been a Chief of Police for 27 years.⁷¹ After the retirement of Chief Daryl Gates of the Los Angeles Police Department 1992, the City of Los Angeles did implement term limits for future police chiefs. In essence, subsequent chiefs were hired for a five-year term. The City could offer the Chief a second five-year term if so desired. This is similar to a closed-term

⁷¹ California Police Chiefs' Association, "California Police Chiefs Demographic Survey."

employment contract. The panel believes there is a 45% probability of this occurring again during the next ten years.

A municipality, through the use of an employment contract among other options, could accomplish the initiation of term limits. This itself could cause an increase in the number of contracts being offered.

Event Nine: No Qualified Personnel Submit Applications for a Police Chief Vacancy

More than half of the panel believed this would never occur because in today's society there will always be qualified candidates to apply. The remaining panel members (including the author) believe that the possibility is real because while there may be qualified candidates, they might not apply for the position. Of these panel members, the ten-year probability of this occurring ranged from 10% to 40%.

If there were no qualified applicants for the position, the municipality would need to take some type of action in response. This could range from running with an interim chief for some period of time, to trying to increase the number of candidates interested in submitting applications. The latter might cause the agency to offer an employment contract as a way of increasing interest in the job. The panel believed the use of employment contracts (as well as increased salary and benefits) could cause leaders to be more interested to apply for the police chief position. This, of course, is the premise of the entire project.

Event Ten: Change In P.O.S.T. Requirements for Police Chiefs

The Commission on Peace Officers' Standards and Training (P.O.S.T.) mandates the minimum standards for any peace officer position, including police chief. This event postulates a situation in which P.O.S.T. makes it more difficult to become a police chief in California. An example is P.O.S.T. making the possession of a Masters degree a prerequisite for becoming a police chief.

Increasing the requirements could have a significant impact on both the number, and the quality, of the police chief applicant pool. This in turn could affect police chief recruitment as a whole.

Cross-Impact Analysis

Following the Nominal Group Technique, this author and another Command College participant met to develop a cross-impact table. Since trends and events do not occur in a vacuum, and may not be independent, the occurrence of an event may impact the slope of the trend curve. Causing an event to occur may be the best way to impact a trend.⁷²

The cross-impact table compares each event with each trend. In other words, if Event One occurs, will it impact Trend One? If Event One occurred, would it impact Trend Two? If so, to what extent?

The extent of the impact is summarized in the cross-impact table as follows. Each event and trend is assigned a number between one and five. The higher the number, the higher the probability the event will impact the trend.

⁷² Tom Esenstein, *A Little Bit About Futures Research*, Command College lecture.

Each number can be either positive or negative. A positive number indicates the event has a positive impact on the corresponding trend. A negative number indicates the event has a negative impact on the corresponding trend. If the number is high and negative, agency resources should be dedicated to preventing the event occurring and thus impacting the trend. If the number is high and positive, agency resources should be dedicated to encouraging the event to occur and to impact the trend.

Cross Impact Table

	T1	T2	T3	T4	T5	T6	T7	T8	T9	T10
E1: Court voids all employment contracts	0	-2	-4	0	-5	-4	-4	0	0	0
E2: Terrorist attack occurs in jurisdiction	+2	0	0	0	-1	0	-1	-2	0	+3
E3: Significant internal scandal occurs	+1	0	-3	-2	-4	0	-3	0	-1	0
E4: Legislation allows civilians to be chief	0	-4	-5	-4	+4	-4	+3	0	-2	+2
E5: New city manager appointed	0	+/- 5	+/- 2	0	+/- 5	+/- 5	+/- 4	+/- 2	+/- 1	+/- 1
E6: State eliminates funding to law enforce.	0	-2	-1	-1	-2	-1	0	-1	0	0
E7: City contracts with Sheriff for police services	+2	-5	-4	0	-4	-5	-3	0	0	0
E8: Long tenured police chief leaves agency	+3	+2	+/- 3	0	0	+2	+1	+1	+2	+2
E9: No qualified applicants for chief vac.	0	+3	+2	0	+1	+3	0	-2	+2	0
E10: POST changes requirement for chief	+4	+3	0	0	-3	+3	-3	0	+3	+1
Trends										
T1: Average level of education of Chief										
T2: Level of pay for a chief position										
T3: Influence exerted by labor unions										
T4: Rights of peace officers provided by law extended to chief of police										
T5: Desire to stay in the #2 rank and not promote										
T6: Benefit package provided to a chief										
T7: Number of applicants for a chief vacancy										
T8: Quality of the community the chief works for										
T9: Existence of a succession plan										
T10: Chiefs' experience with a diverse community										

When the events are compared to the trends, a number of interesting results are found.

If the courts were to decide that all employment contracts were no longer enforceable (E1), there would be a significant negative impact on the desire for leaders to stay in the #2 rank and not promote (T5). This impact occurs because

it takes away an important tool for recruiting such hesitant candidates. Of course, this presupposes that employment contracts become more popular for police chiefs than they are today.

A terrorist attack (E2) has minimal, if any, impact on most of the trends. The most significant impact is a three, for the experience with a diverse community (T10). A terrorist attack, such as the World Trade Center attack on September 11, 2001, which was carried out by a particular ethnic group, causes that ethnic group to be singled out in society. Therefore, a chief with experience in dealing with such issues in a diverse community becomes a valuable commodity in a market with high future demand and low supply.

A significant scandal occurring in an organization (E3) may cause more leaders to want to stay in the #2 rank (T5). Sometimes it just makes sense to stay on shore during a heavy storm, rather than risking life and limb trying to chart the violent seas. Staying in the #2 position at such a time is similar. Scandals cause public resentment, embarrassment, political pressure and upheaval, and other negative side effects. While some are willing to step into the chief position immediately following a major scandal at that organization, many are not.

If the law was changed to permit civilians to become police chiefs (E4), there would be high negative impacts in the level of pay (T2), influence of labor unions (T3), peace officer rights extended to a Chief of Police (T4), and the benefit package provided to police chief (T6). Much of the impact is caused by the dilution of the number sworn police chief's. Police officers currently in the #2

position in an organization would have less opportunity to promote. However, if a subordinate did promote to a chief position, and the trend of civilians in the police chief role continued, there may be a high positive impact on the issue. As more civilians from a workforce where employment contracts are commonplace move into law enforcement, there is a good chance the use of contracts will be used more frequently. While the competition for the police chief jobs increases due to the increase in civilian applicants, the use of an employment contract will likely increase as well.

The appointment of a new city manager (E5) may or may not have an impact on any of trends. If there was an impact, it could be positive or negative. This event cannot be narrowly defined since the impact on each trend depends on the position taken by the city manager.

If a police department were to fold and the jurisdiction contract with the county sheriff for police services (E7), an interesting impact will occur on the trends. The level of pay (T2), benefit package (T6) and number of applicants (T7) will be moot points, because there will not be a chief position in existence. The influence of labor unions might conflict with the quality of the community. In this author's experience, when this event begins to take effect, the community rallies behind the local police department due to the fear of decreased service leading to a decrease in the quality of the community. However, labor unions may be silently in favor of the folding of the police department. Such an absorption into a local sheriffs' department (at least in the medium and larger California counties) frequently means higher pay, better benefits, more special

assignments, a larger geographic area to patrol, no requirement to work custody first, and more promotional opportunities.

Scenarios

In this section, three possible scenarios of the future are developed, in order to provide possible outcomes that may be influenced by particular behaviors today. One scenario will be a pessimistic view of the future. Another will be a normative scenario, or the “most likely” scenario to occur. The final scenario will be an optimistic view of the future.

Pessimistic

Once upon a time in the year 2008, a large convention for California city managers was being held at a conference center in a large city. One of the breakout sessions was entitled “Police Chief Recruitment.” As it turned out, this session had the largest attendance of any of the sessions. It seemed this topic was of interest to all the city managers. The guest speaker was a well-known city manager.

The city manager began his address by commenting that nearly all cities had adopted the California Public Employee’s Retirement System (CalPERS) 3% at 50 plan. In fact, CalPERS had notified all agencies that they were going to discontinue the 2% at 50 plan, as there were only about a half-dozen agencies in the state still using it. While the 3% at 50 was hailed as a boon to labor organizations, city managers were seeing a very negative side to it. Many of

their police chiefs were retiring, leaving them with a large void of top executive positions to fill.

They found the problem was made worse because a significant majority of seasoned leaders were not willing to step up into the police chief position. Oh, there were plenty of people willing to apply. Some were looking for more money, some for a more important title, some with honest intentions but a lack of ability. None of the applicants were what the city managers were looking for. This was further compounded by the fact that many of the leaders who would have otherwise been eligible for a police chief position were retiring themselves.

The city manager shared information about several surveys that had been conducted. It appeared most leaders were not willing to step up into the police chief job. The foremost reason cited was that there was no job protection because they were classified as being “at-will.” With so much vested, it seemed that qualified people were not willing to put up with the longer hours, additional stress and job politics without job protection and predefined contractual working conditions, job descriptions, causes for termination, and a severance package. Many of the applicants wanted the expectations in writing, along with the ways the applicants’ performance would be measured. The city managers thought this was too much trouble; after all, they simply wanted good police work and a low crime rate.

Since the city managers present all agreed that it was not worth it to give their police chiefs contracts, most had to settle with their fourth or fifth pick to fill

the position. In some cases, it was sergeants and lieutenants filling the department head position.

This just created a vicious circle. These picks never quite fit the bill and had to be terminated, or in some cases the agency just had to make do. The city managers continued pointing to these people as the reason they were not willing to offer an employment contract. How unfortunate. They seem to be missing the ever present concept of “as you sow, so shall you reap.”

Normative

The following year, at the same conference, the same “woe is me” viewpoints and stories were shared and supported. Many city managers were weary of trying something new, especially a new idea that had not yet been embraced by their peers.

And so as the years passed, police chiefs came and went. Their terms of employment remained the same, as did the way they ran their organizations. In essence, there was no change. Nobody was willing to step out on a limb – not the city managers by offering an employment contract, and not the police chiefs by trying new and innovative forms of policing.

Organizations failed to thrive, people stagnated, the community did not reap the benefits they needed and were entitled to. Everybody just settled on “business as usual,” simply because of the fear of change.

Optimistic

The following year, the California city managers met again in a large city. This year was different though. The tide was turning. City leaders suddenly had their eyes opened to the errors of their ways. They had refused to provide contracts to their police chief applicants, so they had to settle for second best, or sometimes worse.

During the preceding years, a group of courageous leaders decided to give the contracts a try. To their surprise, they worked wonderfully! While there was that fear in the back of their minds that losing the ability to fire the agency head for no reason would come back to haunt them, they found the opposite to be true. The contracts spelled out performance goals and requirements. The chief, the city manager and the city council knew what was expected. For the vast majority, not only were expectations met, but they were exceeded on a grand scale.

The police department, and thus the community, benefited as well. The chief was able to lead and did not fear the winds of political change. The joke about it taking a “3 to 2 vote and I’m gone” was no longer heard when somebody wanted to “think outside the box” and try something new and innovative to further the organization’s mission.

At this city manager meeting, there were a number of success stories shared. People wondered why it had taken so long to come around to seeing the substantial rewards an employment contract can offer both sides.

Joel Barker, the keynote speaker, summed it up best – it was about paradigms ... being comfortable in one, and fearful of another.

Any number of trends or events may impact the issue of how employment contracts may affect police chief recruitment in the future. This chapter examined the different trends and events that a panel identified during the Nominal Group Technique. The trends and events were compared to each other in the cross-impact analysis, and three possible scenarios were developed for the future.

The next chapter is devoted to the development of a strategic plan. The goal of the strategic plan is to provide a roadmap of one possible way to achieve a desired outcome. In this case, it is the realization of the optimistic scenario.

CHAPTER THREE

STRATEGIC PLAN

In Chapter Two, three possible scenarios were developed. These three scenarios occurred over a time line. The pessimistic scenario was early in the time line, the normative was mid-range, and the optimistic was at the end. Certainly, it would be fantastic if a positive environment existed in which leaders could make a difference. As such, this chapter will develop a strategic plan based upon the optimistic scenario, in order to provide a roadmap towards the future. An analysis of the strengths, weaknesses, opportunities and threats (SWOT) to the issue of employment contracts as a way to affect police chief recruitment in an efficient and mutually beneficial manner will be discussed. The stakeholders will be identified and evaluated.

Vision/Goals/Objectives

There is a concern that future holds the potential for difficulty with recruiting quality applicants. Fortunately, it appears the profession is just crossing the threshold and starting onto this road. Through planning, law enforcement and municipal leaders can influence the direction our future will take.

With proper planning, the future can be bright, beneficial, and move not just law enforcement, but our community, to a better place. Organizations can

recruit the best, the brightest, and the most enthusiastic candidates into the ranks of police chief.

With improper, or worse, no planning, the future is predictable. Organizations will continue down the same beaten path. More and more of leaders will retire, and there will be insufficient top caliber candidates willing to step into the police chief rank to fill that void. These superstars may be ready and able, but they are not willing to step forward in sufficient numbers.

It is therefore incumbent upon law enforcement leaders to forge ahead and chart the path to be followed. It would be wonderful if a lot of the negatives associated with being a police chief, such as long hours, considerable stress and pressure, politics, labor unions, unfavorable media, scandals, and the like could be eliminated. Unfortunately, this would take something akin to a miracle. As a result, organizations need to find what will work to move towards the optimistic scenario. Recognizing that the use of employment contracts as a way to influence police chief recruitment by itself is not a panacea, it is one practical leap in the right direction for the future.

The goal of this strategic plan is therefore to increase the number of California municipalities that offer employment contracts to police chiefs, and thereby having a positive affect on police chief recruitment.

In this chapter, the plan will focus on a common scenario. A local, mid-size suburban law enforcement agency has a need to fill a police chief position. This will occur in the fictional City of Hamake. The former chief of police is set to

retire in ninety days, and the city manager is looking to begin the hiring process. Due to the complex nature of an executive recruitment, the city manager has sent out requests for proposals to a number of executive search firms. The contract was awarded to a large firm with a good reputation.

The City of Hamake was not offering an employment contract as part of the benefit package. The reason was fear by the city manager and city council that such a document could limit their abilities to terminate the chief at-will, and thus they would not be holding all the cards. Furthermore, the City of Hamake was fearful about the public reaction to a contract that provided for severance pay under certain circumstances. On the other hand, the city manager and city council liked the idea of having both sides reduce their performance expectations to writing.

After a statewide search, a number of candidates submitted applications. This group was pared down to the top five candidates. While the candidates were all qualified and capable, the executive recruiter knew there were better candidates available.

Discussions ensued between the recruiter and the City of Hamake. Did the City of Hamake wish to settle on what would almost certainly turn out to be a fairly good candidate, or for the same cost, were they looking for the best? In this case, the city wanted the best, and was looking for something akin to the optimistic scenario.

Organizational Analysis

Strengths, Weaknesses, Opportunities and Threats

There are a number of strengths, weaknesses, opportunities and threats that could impact the strategic plan for the development of the optimistic scenario. Strengths and weaknesses are internal (or organizational). Opportunities and threats are external (or environmental). The optimistic scenario envisions a future in which employment contracts are commonplace. As a result of the commonplace contracts, police chief recruitment is made easier and more productive, as larger numbers of very qualified candidates come forward to fill the void left by retirements.

Strengths

- Employment contracts are not uncommon for city managers, and the city manager for City of Hamake has an employment contract.
- Neighboring agency city managers have employment contracts.
- Effective employment contracts spell out expectations of performance and identify specific measurable goals. This can make all involved more satisfied, improve relations, and spark creative policing. All involved in City of Hamake are interested in these areas.
- The significant majority of executive recruiters favor the use of employment contracts. In this plan, the executive recruiter believes an employment contract is a beneficial way to recruit top-notch candidates. Just as importantly, the contract can help retain these top-notch individuals.

Weaknesses

- The employment contract can be exploited, as happened in the City of South Gate.
- There is a fear of giving up control by providing a chief executive a contract that provides for “for cause” termination and/or a severance package.
- In the event the police chief, or his or her employer is not satisfied with the performance of the other, they may be tied into the working relationship for the length of the contract.
- It is comforting for a city manager and/or city council to know that they can fire the police chief for any lawful reason and without notice.
- The lack of formalized succession planning can seriously impede the development of quality internal candidates.
- City councils change every four years and city managers move on. This creates an unstable political environment for a police chief looking to continue long-range plans for the fulfillment of proactive law enforcement goals and objectives.

Opportunities

- Employment contracts are accepted and widely used in the private industry for top positions.
- Employment contracts have been successfully used by local law enforcement agencies in other areas.

- Employment contracts can be tailored to each agency's needs, desires and comfort level.
- On a state and national level, there are very capable and qualified chief candidates at hand ready to be tapped.
- Employment contracts are favored and endorsed by labor organizations, city management associations and recruiters.
- Increases in both the number of retirement, and proposed increases in retirement benefits may drive the need to find a solution to the problem.
- Veterans and Baby Boomers will be retiring, leaving an increasing number of Gen X city managers. Gen X leaders may tend to favor the use of employment contracts.
- Progressive law enforcement leaders are looking to improve police services, implement community oriented policing and problem solving, and manage change. To do so, they need enhanced autonomy and authority. "A contract makes it much easier for the police chief to make the tough, often politically unpopular decisions necessary in running a police department. With rare exception, the police department is a caldron of political activity that makes organizational change extremely difficult. ... With a contract, the opportunity to emerge as an effective leader increases."⁷³ "For a chief of police to be a fully effective leader, however, a reasonable degree of job security and independence to perform tasks is needed. Job security does not diminish accountability to elected or appointed officials nor does it eliminate the

⁷³ Kirchoff, *Selecting a Police Chief: A Handbook for Local Government*, 143.

potential to remove a chief of police from office for cause. Rather, it provides a foundation on which an executive can build, experiment, innovate, and serve.”⁷⁴ “A chief of police with a contract may evolve into a different leader than an executive who functions without one. The police chief without a contract may focus on programs and make decisions that ensure job security rather than on those more relevant to the needs of the department or community.”⁷⁵ Additionally, the chief can “implement long-term, innovative, and experimental programs confidently, knowing there will be sufficient time to see them through.”⁷⁶

- Better relationships between the employer and employee, mutually agreed upon goals, and clarified expectations will only enhance the ability to provide quality police services in a warm, positive working environment. “... [G]oals, objectives, and the need to accomplish them within a specific time frame should be clearly understood by all parties. ... A performance contract makes public what the chief must accomplish within a specific time frame to retain his or her job.”⁷⁷ The contract “defines the working relationship between the chief and appointing authority and enables each of them to detail expectations, thereby reducing or eliminating misunderstanding and misperception.”⁷⁸

⁷⁴ Greenburg, *On the Dotted Line: Police Executive Contracts*, 6.

⁷⁵ *Ibid.*, 7.

⁷⁶ *Ibid.*, 8.

⁷⁷ Kirchhoff, *Selecting a Police Chief: A Handbook for Local Government*, 144

⁷⁸ Greenburg, *On the Dotted Line*, 10.

- The ability to retain an effective, dynamic and well-performing chief of police rises with the use of an employment contract through encouraged longevity. “Police chiefs with contracts tend to serve longer terms than their peers who are working without one.”⁷⁹ “A written contract will reduce the potential for the chief of police to resign. The chief has as much obligation to fulfill the contract as the appointing authority. The temptation to look elsewhere for employment, particularly during adversity, is reduced.”⁸⁰ “Despite increased recognition of the complexity of the position of police chief, longevity remains an achievement of a relatively small number of executives.”⁸¹
- The ability to recruit and hire a chief of police rises with the use of an employment contract. A written contract “may attract a larger number of qualified candidates to the position. A larger applicant pool provides greater choice to the jurisdiction. Providing a contract may be the deciding factor for a qualified, prospective chief who is contemplating taking the job.”⁸²

Threats

- The South Gate exploitation found its way into the mainstream media, which taints the public perception of such documents.

⁷⁹ Greenburg, *On the Dotted Line*, 10

⁸⁰ Ibid.

⁸¹ Ibid., 3.

⁸² Ibid., 10.

- The municipality may suffer a financial loss if the police chief is terminated, due to the payment of a severance, and the necessity to undergo another testing process.
- Some opponents of contracts (e.g. councils and city managers) argue that “a written contract inhibits the chief of police from maintaining a relationship that recognizes political pressures. They note that the contract creates too much independence and strips them of an important tool for controlling a department head and maintaining the desired management team.”⁸³
- California chiefs with employment contracts are still in the minority, and the significant majority of chiefs are still “at-will” employees.
- The “tipping point” has not yet been reached and thus the use of employment contracts will not expand greatly until it is.

Stakeholder Analysis

Stakeholders are individuals or groups who are either impacted by the issue, or who can impact the issue. Stakeholders exist both within the organization, and external to the organization. The stakeholders below all play a part in the fictional city of Hamake.

⁸³ Greenburg, *On the Dotted Line*, 13.

Internal Stakeholders

- Current Chief of Police

In terms of determining the future of employment contracts as a tool to influence police chief recruitment, the first question is whether the current police chief has an employment contract. If so, and if the parties are satisfied with the manner in which the terms and conditions of the contract has been fulfilled, the odds of a future recruitment including an employment contract as one of the benefits are good. In the city of Hamake, the police chief has an employment contract, which has both a for-cause termination clause, and provides a severance package. The police chief may be called upon to give insight and advice by the city manager when the time comes to search for a replacement for a retiring chief. A chief who pushes the contract issue as a recruitment tool can be a valuable internal resource for making the vision of the optimistic scenario come to fruition. Provided a fair and equitable employment contract is offered, the current police chief should be a strong proponent of its use, for the reasons outlined in this project. In Hamake, the chief fits this description.

- Police Chief Candidates

Potential candidates for a police chief vacancy, both internal and external to the organization, are stakeholders. In Hamake, there are qualified candidates from inside the organization who are eager to promote to chief,

thus recruitment might not be an issue for Hamake. The prospective chief candidates will ask for an employment contract as a part of the hiring decision and benefit package. It is recognized that this might not have any effect on how the contract may affect police chief recruitment, since there is already a qualified candidate within the organization. One problem that arises with both internal and external police chief vacancies is the natural desire and drive to become a police chief overriding the desire for an employment contract. While in Hamake, the internal candidates would like an employment contract, it is recognized they will quickly accept the position even if their request is turned down. More organizations would likely be willing to offer employment contracts if there were no candidates willing to accept a police chief offer without an employment contract. As long as candidates are willing to settle for a police chief position without an employment contract, the candidate leaves the desire for an employment contract up to the good will of the employer. It is understandable that those candidates strongly desiring to promote may be willing to give up the security a contract offers for their first police chief role. Potential police chief candidates should have a strong desire to see the use of employment contracts become commonplace for the same reasons the police chief would – they benefit from them.

- City Manager and City Council

These two groups typically have the final say in whether or not an employment contract is offered, accepted, and what terms and conditions are contained within the contract. Many of the strengths and weakness identified above come directly from this set of stakeholders. It is imperative that for the optimistic scenario to take effect, the support of these stakeholders is earned. The city manager and city council undoubtedly desire a police chief who is effective in meeting the goals and objectives of the municipality in providing quality law enforcement services. This is true of the city manager and city council of Hamake. The task is to demonstrate how an employment contract will help the municipality recruit and retain such an individual, and how it is a win-win situation for all involved. These stakeholders can, and do, run the entire continuum. In Hamake, the city manager is not eager to offer an employment contract. Part of the reason is the fear (as typical, caused by misinformation) that by offering an employment contract, some control over the chief will be lost. As for the city of Hamake city council, some members are for the idea and would be willing to offer an employment contract. Some members are neutral and have not made up their minds. Others are dead set against them. The task is to help those peer stakeholders who are supportive of the idea share their successes with the others in an attempt to make believers of them. Those in the middle may simply need more information to build their confidence that they are doing the right thing, and that the

use of a contract will benefit both the employer and the employee. Those who are strongly opposed will be found on the battlefields of the future.

- City Attorney

The city attorney may have some influence on whether or not an employment contract is offered or accepted, and on the terms and conditions of the contract. It is important not to lose sight of the fact that the municipality is the client, not the prospective police chief. As a result, the city attorney's responsibility is to look after the best interests of the employer. Much like the city manager/city council stakeholders, the city attorney may take a wide variety of positions on the issue. One benefit, of course, is their understanding of contract law, transactional drafting and the legal benefits of having the parties reducing their intent and expectations to writing. Those city attorneys with a background in employment law may tend to be more supportive.

- Personnel/Finance Departments

Depending on the municipality, these two departments may be very powerful, or be in the background. The employment process and related decisions are typically routed through the Personnel or Human Resource Department, either directly, or indirectly through an executive recruiter. Like the city attorney, a finance department is ultimately responsible and accountable to the employer. An employment contract gone awry, such

as the South Gate example, can be a finance nightmare. A finance department would expect that any employment contract make good fiscal sense for the municipality to enter into. Cost savings related to tenure, and the fulfillment of the terms and conditions of the contract may be an effective tool to convince these stakeholders to support the issue. In the city of Hamake, the personnel department does not have a direct influence on the issue. On the other hand, the finance department exerts significant influence and control. In Hamake, the finance director does not want the chief to have an employment contract. One reason is that neither she, nor the rest of the department heads, have employment contracts. As a result, they serve at the will of the city manager. A second reason is that the finance director does not think severance pay is a good use of public resources.

- Labor Unions

At first blush, labor unions do not seem to have much influence on the issue. However, an organized and driven union can manipulate the media and public perception. This in turn can put pressure on other internal stakeholders. A labor union with a nasty disposition and a little bit of inside information can cause significant stress and heartache for a chief applicant attempting to obtain an employment contract. Conversely, a union may desire stability and a smooth relationship, and therefore influence pressure towards the acceptance of a contract. In the city of

Hamake, the labor union is non-committal on the issue. On one hand, the union recognizes that an employment contract may help attract a top candidate. On the other hand, the Hamake police union does not really wish to become involved in the issue of taking sides on the prospective police chiefs' employment benefits. Of all the stakeholders, the union is the snail darter. In stakeholder analysis, the term snail darter has come to mean a person or group who is often overlooked as having an important role. The snail darter can often derail the entire project, or in this case the issue.

External Stakeholders

- Private Industry

Private industry becomes a stakeholder through a process of collateral influence. Since 80% of the new innovations and changes begin outside of a particular industry or field, those law enforcement and municipal leaders seeking to be paradigm shifters need to examine what is occurring outside law enforcement. By way of example, just as law enforcement tends to adopt technology originally researched and developed by the military, the issue of employment contracts as a tool to recruit and retain chief executive officers can be adapted from private industry.

- Chamber of Commerce

Similar to private industry, the Chamber of Commerce is a collaboration of individuals from private industry. The Chamber of Commerce influence does not necessarily stem from a pattern and practice of the use of contracts since the largest percentage of Chamber members are small private owned businesses, and small businesses tend not to use employment contracts. Instead, the influence and impact comes from the political pressure a chamber may have on the other major internal stakeholders, such as the city council and city manager.

- Community Members

Much like the Chamber of Commerce, the community members may have an indirect influence on the use of employment contracts through political pressure placed on the city manager and city council. In addition, the community members could utilize the media as an ally in advancing their particular position on the issue.

- Management/Labor Organizations

These organizations have been the champions in the area of employment contracts. It is not all that common for organizations that represent management (i.e. the International City Management Association), organizations that represent labor (i.e. the International Association of Chiefs' of Police), as well as other influential groups (i.e. the Police

Executive Research Forum), to all see eye-to-eye on an issue such as compensation, benefits, and other terms and conditions of employment. However, in this case, the groups have all adopted a position in favor of employment contracts. These stakeholders will be important in convincing other skeptical stakeholders of the value of the issue.

- Executive Recruiters

These stakeholders have the ability to gently push the tide towards the use of employment contracts. An executive recruiter hired by a municipality tends to be the outside voice of reason, and can assist the parties in coming to a mutual agreement. The executive recruiter can in essence sell the municipality and key internal and external stakeholders on the benefits of employment contracts in the recruitment efforts. Conversely, although this researcher has not found any executive recruiters who are against the use of contracts, any such recruiter would have a negative influence on the issue.

- Authors and Media

Authors and/or the media have the ability to impact the issue. No matter what the format, spotlighting the positive consequences of employment contracts as a recruiting tool, while dispelling the myths, fears and concerns about the use of contracts can make a significant difference. The key of course is to get positive information into mainstream circulation

in order to make a difference. On the other hand, negative publicity (e.g. South Gate) can harm the cause.

- Legislators

Lawmakers also have an indirect effect on the issue. Legislation has been passed, and there is legislation pending, to modify and improve the benefits provided to law enforcement officers. Some of the legislation, such as the 3% at 50 retirement benefit, make the need for employment contracts as a tool to affect recruitment and retention the issue that it is. Senate Bill 100 would “increase the retirement benefit limit for local safety members ... from 90% to 100% of final compensation.”⁸⁴ Just as PERS reported the increase from 80% to 90% caused a delay in retirements as members worked three to four extra years in order to achieve the maximum benefit, the increase to 100% could easily cause the same postponement to occur. Ultimately, this just delays the inevitable. The retirements still occur. Arguably, the longer the retirements are postponed, the more employees will end up retiring at the same time, leading to more police chief vacancies to be filled.

⁸⁴ Bill Analysis, Senate Bill 100, www.leginfo.ca.gov/pub/sen.

Strategy Development

After identifying the issue and its background, the strengths, weaknesses, opportunities and threats, as well as the relevant stakeholders, the next step is to develop one or more broad strategies intended to help maximize the use of employment contracts as a recruitment tool.

Strategy One

There needs to be an increase in the understanding and acceptance of the potential problem that presently exists with police chief recruitment, and the problem that will continue as law enforcement moves into the future.

Presently, there are many qualified individuals ready to step up into the ranks of police chief. Unfortunately, not all are willing to do so. Escalating numbers of police chief vacancies are expected in the future as more and more senior executives retire. The use of employment contracts is one mechanism to help draw these qualified individuals into the applicant pool. Strategy One focuses upon increasing the understanding and acceptance of the use of employment contracts as a recruitment and retention tool through the use of education.

A focus on education is imperative. In this strategy, those who have found them to be invaluable will present the virtues of employment contracts in professional conferences. These conferences should span national, state and local venues, and should target all involved stakeholders. Presenters will include city managers, city councils, police executives and executive recruiters. All of

these individuals will share their personal experiences with the benefits of using an employment contract.

These same presenters will expand their impact beyond conferences in order to reach additional stakeholders. This will be accomplished by writing articles in magazines and trade journals, and distributing and/or writing books and other forms of literature in order to influence stakeholders.

Executive recruiters need to take an active role in exalting the benefits of employment contracts with their clients, and push for consensus. The subtle education by an impartial person with first hand knowledge in the field can be beneficial in swaying stakeholders.

The strengths of this strategy include:

- Low cost
- Focus on education and the dispelling of false concerns and assumptions surrounding the use of employment contracts, which helps break down a significant barrier to the expanded use of contracts
- Spreads the workload around to many individuals
- Reaches many stakeholders in various fields
- Utilizes a wide variety of media

The weaknesses of this strategy include:

- Requires the commitment of many people
- Difficult to measure the effectiveness
- Unable to gauge the receptiveness of the target stakeholders

- Targets different stakeholders in different venues, thus may not reach all stakeholders.
- Takes a passive approach
- The natural tendency of some candidates trying to get their first police chief job may cause them to settle for employment without a contract

Finally, the use of employment contracts must be commonplace for the optimistic scenario to become a reality. This will take a concerted effort to bring all stakeholders on board until the tipping point is reached. Once reached, the use of contracts should escalate exponentially.

Strategy Two

Strategy Two involves pursuing the use of employment contracts, as outlined in Strategy One, with the addition of pushing for legislative changes.

In the past few years, there have been a number of legislative changes aimed at increasing retirement benefits. While these changes have led to increased monetary benefits, they have also had the effect of keeping individuals with their agencies several years longer in order to collect these payments⁸⁵. Now that these benefits have nearly reached their maximum (Senate Bill 100), law enforcement may see the predicted exodus of seasoned law enforcement professionals. The retirement benefits can no longer practically be extended in order to maintain the tenured police executives.

⁸⁵ Hall interview.

The legislature will need to examine other approaches to keeping tenured police professionals on the job, and to step into the police chief ranks. One such approach may be to extend the same due process rights to police chiefs that line level officers currently enjoy. These include “for cause” termination provisions.

The easiest mechanism for this to occur would be a political push by the involved stakeholders and professional organizations (e.g. California Police Officers’ Association, California Police Chiefs’ Association, and International Association of Chiefs of Police). If a political buy-in can be achieved, and it survives the legislative process, law enforcement would be another step closer to making it easier to recruit and retain police chiefs.

The strengths of such a plan include:

- Minimal cost and effort
- Provides a significant gain to make younger professionals willing to become police chiefs.

The weaknesses include:

- Only addresses one issue of police chief recruitment (“for cause” terminations)
- Requires significant political buy-in at the state politics level

This chapter has focused on the development of a strategic plan designed to increase the use of employment contracts as a tool to influence police chief recruitment. The vision was shared, an organizational and stakeholder analysis was conducted, and two strategies were developed. The next chapter will focus on transition management. That is, how Strategy One can be developed

(increase the understanding and acceptance of the potential problem that presently exists with police chief recruitment, and the problem that will continue as law enforcement moves into the future) in order to have an impact on the use of employment contracts as a way to affect police chief recruitment.

CHAPTER FOUR

TRANSITION MANAGEMENT

This chapter will build upon the strategic plan developed in Chapter Three, and will explore commitment planning, implementation and evaluation of the issue of how employment contracts might affect police chief recruitment in the future. Unlike many issues, the use of employment contracts is rather black and white. There is overwhelming evidence that the use of contracts is beneficial for the given purposes. Nevertheless, there is still resistance to the idea, and the tipping point has not yet been reached. As a result, the transition plan is focused upon moving several essential stakeholders in municipalities towards the standardized usage of employment contracts.

Commitment Planning

A commitment plan is a strategy in which support is garnered from those stakeholders whose commitment is essential to make the use of employment contracts become a reality. This group is often referred to as the “critical mass.” The critical mass here includes the city manager, city council, city attorney, police chief candidates, personnel & finance departments, and the media and authors. This group either can, or does, have influence (positive or negative) on the issue at hand.

A commitment planning chart is included for clarity. A “X” identifies where a critical mass member is at this present point in time. An “O” identifies where

the critical mass member needs to be. Ideally, the “X” and the “O” should be in the same box. If not, work needs to be done to move them to the same box in order to achieve the necessary commitment to make the change occur.

Those stakeholders who can “block change” can cause the entire issue to fail. For this particular issue, these stakeholders can effectively eliminate the possibility of obtaining an employment contract as a tool to recruit police chiefs.

Those stakeholders who “let it happen” are willing to allow the employment contract to go through, but are not really the movers and shakers. Sometimes, these stakeholders need to take on a more active role, and be moved to another category. Other times, stakeholders in other categories who are more active and interfering, need to be moved to the “let it happen” category in order to take a “back seat” and be out of harms way.

Those stakeholders who can “help change happen” are beneficial in providing needed assistance. Those stakeholders who can “make change happen” are the “movers and shakers.” On occasion, there are stakeholders who may be able to “make change happen,” but not the correct change, or not make the change occur properly. In this case, these individuals need to be moved.

COMMITMENT PLANNING CHART

CRITICAL MASS MEMBERS	BLOCK CHANGE	LET CHANGE HAPPEN	HELP CHANGE HAPPEN	MAKE CHANGE HAPPEN
City Manager	X			O
City Council	X			O
City Attorney		X	O	
Police Chief Candidates		X	O	
Personnel & Finance Dept.		O		
Media/authors		X	O	
<p>X = Present Location O = Desired Location</p> <p>Circled = Goal met</p>				

The city manager, city council and city attorney can fall within several categories. The city manager and city council are both in a position to either block the use of employment contracts, or to implement the use of an employment contract. Of course, in order to make the optimistic scenario occur, both of these stakeholders need to be in a position to make the change occur. In

a situation where only one of these stakeholders makes the ultimate decision, the other would need to be in a position to allow the change to occur.

Interestingly, if both the city manager and city council are in a position to offer an employment contract, and do offer the contract, the remainder of the stakeholders are no longer part of the critical mass. This is because the other members are not in a position to actively block the change. They may be able to influence the change, but by themselves, they cannot prevent an employment contract from being offered.

Since these stakeholders are in a position to block the change, emphasis must be placed on these figures to move them away from a block change position. This may be accomplished through education, and supporting pressure from outside sources, such as the city attorney, executive recruiter, or media.

The city attorney is typically in an advisory position to the city manager and city council. As such, the city attorney is often in a position to either let change occur, or to help change occur. In this context, it means the city attorney can allow the city or executive recruiter to offer an employment contract for recruitment purposes. The city attorney can be more proactive and be in a position where he or she actively advises the city council and city manager to offer an employment contract. Ultimately, the city attorney would best move the organization towards the optimistic scenario by helping the change occur.

The sitting or recently retired police chief can be in one of two positions. Either he or she can passively allow the change to occur by not offering an opinion on the subject of employment contracts and/or recruitment, or he or she

can be active by sharing his or her knowledge on this issue with the highest echelon of the critical mass.

Police chief candidates typically may be willing to let change happen, but need to help change happen. If the majority of candidates were willing to hold out for an employment contract, other key stakeholders would, in essence, be forced to pay what the market will bear and offer an employment contract.

For the most part, personnel and finance departments cannot actively block the change, even if they are against it. As long as these stakeholders are in a position to simply allow the use of employment contracts, there should not be any significant problems.

The media and other authors assert an interesting dynamic in the commitment plan. While by themselves, they cannot block the change, they can exert a significant amount of negative pressure on the city manager and city council in an effort to block the change. The media typically does not share success stories of this type, so they tend to remain in the let it happen category, or try to influence the public to influence the city manager and city council to block the change.

Authors who write about this topic almost unanimously are very positive and supportive of the use of the employment contracts, not only as a tool to recruit police chiefs, but to improve the performance and satisfaction of all the involved parties. This group is characteristically in a position to try to influence others to change for the better.

Implementation

In order to implement the strategic plan, each of the stakeholders needs to assume the role of teacher and mentor. Longstanding attitudes need to be changed, and it will take the coordinated efforts of a number of stakeholders.

There are two vital stakeholders in the equation who must be moved from the block change level of commitment. These are the city manager and city council members. Without their full support, the proposed change cannot move forward.

The most critical step to garner support is education. This education must start immediately if it is to have any affect on the future of police chief recruitment. The alternative is to leave the future to chance, and rely on the key stakeholders' predisposition towards employment contracts as a future recruitment tool.

Education

Trade Journals

Respected authorities in the field will need to take the opportunity to share their knowledge and expertise by writing about the subject in trade journals, magazines, training information and books. Myths should be dispelled, and success stories shared.

Information Sharing

Information about the future of police chief recruitment, anticipated problems and proposed solutions should be presented at training courses and conferences for the members of the critical mass. These include conferences attended by city councils, city managers, and city attorneys.

Police chief candidates and executive recruiters must take every opportunity to share information with the hiring authority. Ultimately, the police chief candidate and/or executive recruiter must make the request for an employment contract upon the hiring authority. If the authority denies the request for an employment contract, a decision about whether or not to accept the job must be made. If the job is not accepted, the organization has not reached the optimistic scenario. It has instead fallen prey to the future, by losing its top candidate. The organization must now look to its second or third choice to lead the department into the future.

Political Influence

The changes in the California retirement systems for law enforcement has postponed the retirement of a number of executives, without really fixing the underlying issue. The exodus is inevitable as time passes. Legislative changes are needed in order to encourage viable candidates to step into executive officer positions.

Groups with political influence should push for legislative changes. The California Peace Officers' Association, California Police Chiefs' Association,

Peace Officers Research Association of California, and the International Association of Chiefs' of Police can all be instrumental in garnering the legislative support needed to fix the potential problem before it strikes. These changes may include providing "for cause" terminations and mandated severance packages.

As discussed, there are a number of participants (stakeholders) responsible for separate pieces of the puzzle in order to implement the change. The Responsibility Chart helps identify the different roles of each of the key participants.

In the Responsibility Chart, those participants who are directly responsible for carrying out the identified decisions in order to help achieve the goal of the strategy being implemented have been identified with a "R." Any participants who need to provide direct approval for the decision would be identified with an "A." In this instance, none of the specified decisions requires approval. Those participants whose support is needed have been identified with a "S." Finally, any participants who should be informed of actions being taken have been identified with an "I."

Responsibility Charting					
Decisions	Participants				
	Chief of Police	City Manager / City Council	City Attorney	Management & Labor Organizations	Legislators
Write Articles	R	I	I	S	I
Conference Presenter	S	R	S	S	I
Share Successes	S	R	S	S	I
Legislative Changes	I	S	S	S	R
R - Responsible for change S - Support is needed A - Approval required I - Need to be informed of actions					

Evaluation

As with any strategy, a mechanism should be in place in order to measure the effectiveness of the strategy. Here, the key is to increase the acceptance and use of employment contracts as a way to affect police chief recruitment. The use of a survey to identify both quantitative and qualitative information is proposed in order to measure the strategy results.

The California Police Chiefs' Association and the Police Executive Research Forum have established the baseline measurement.

In California, 2001, 32% of the respondent police chiefs had employment contracts (62 chiefs), and 86% of the responding police chiefs were considered

an at-will employee.⁸⁶ On a national level, in 1997, 26% (95 chiefs) had employment contracts.⁸⁷ The national data may not paint a fair picture of other states, as California made up the largest percentage (nearly double the next highest state) of respondents to the national survey.

Another survey may be taken by the California Police Chiefs' Association in 2008, to determine the number of chiefs with employment contracts, at-will status, turnover rate, and so forth. The city managers' association may desire to conduct a similar survey to determine how many candidates turned down a job due to not having an employment contract, and how many municipalities had to select somebody other than their first choice.

This chapter has identified those individuals whose active commitment is necessary, also known as the critical mass. The city council and city manager must not block the change; otherwise the entire venture will fail. Others have the ability to move these two stakeholders towards change. These groups include the city attorney, sitting police chief, the media, and other authors. An implementation plan was developed, and focused upon preemptive education as a means of moving organizations towards the tipping point.

⁸⁶ California Police Chiefs' Association, *California Police Chiefs' Demographic Survey*. 339 surveys were distributed. 209 were returned. Not every question was answered on every survey.

⁸⁷ William E. Kirchhoff, Charlotte Lansinger, James Burack, *Command Performance, Career Guide for Police Executives*, (Washington, D.C.: Police Executive Research Forum, 1999), 205-224.

CHAPTER FIVE

FINDINGS AND CONCLUSIONS

This paper has explored the issue of police chief recruitment, and particularly, how the use of employment contracts will effect police chief recruitment by 2008. The answer is that it may be one of the most significant mechanisms to draw in otherwise qualified candidates whom do not presently wish to step into the police chief role. This is accomplished by a number of mechanisms.

Summary

Background

Upon which path is the future taking the leadership of law enforcement? To answer this question, the starting point must first be identified.

There are 336 municipal police chiefs in the State of California. California police chiefs have averaged about a 10% annual turnover rate.⁸⁸ This equates to roughly thirty-five or forty new police chiefs being promoted every year. This rate is expected to continue into the future.

This project looks five years into the future, to the year 2008. At a 10% annual turnover rate, in five years a full 50% of the current police chief's in the State of California will no longer be leading their organizations. Municipal law enforcement agencies will need about 175 to 200 new leaders to fill the void.

⁸⁸ California Police Chiefs' Association, *California Police Chiefs' Demographic Survey*.

The question is whether there will be sufficient leaders ready and willing to step into these positions.

Finding the sheer quantity of applicants will probably not be a problem, especially if a search is extended nationwide. Unfortunately, similar to all positions within the law enforcement profession, having an extensive volume of applicants is simply not sufficient. Most agencies are experiencing an on-going problem with recruitment for line-level officers. Yet, the problem is not with the number of applicants. It is with the quality of the applicants. This problem with line-level applicants may foreshadow the future problems agencies will face with quality police chief recruitment.

Lack of Desire

Why are there not scores of qualified applicants for police chief vacancies running to turn in their applications? Why are there now so many highly qualified leaders content with remaining in the number two position? Among other reasons identified, it is the politics of the job, the media influence, the labor unions and city council. It is the long days and short, if any, weekends combined with the comparable low pay. It is the blame when the crime rate goes up. It is the lack of external rewards, and the lack of job security. It is the prospect of a younger, Generation X leader looking at stepping into an at-will position before he or she can draw retirement. The prospect of being unemployed at age forty-three without severance, retirement or other means of supporting a family is uncomfortable at best, and poor financial planning at worse.

Employment Contracts

One way to mitigate some of the concerns in the previous paragraph is by the use of employment contracts. It is recognized that employment contracts are not a panacea, but they can make an impact.

Employment contracts can be constructed based upon the wants, needs and desires of both parties. Most employment contracts detail the terms and conditions of employment, as well as performance expectations of both parties to the contract. This is one of the primary reasons that all major professional organizations, both labor and management, espouse the use of employment contracts. Not only do police chief groups such as the International Association of Chiefs of Police support their use, but also the International City Management Association, and the Police Executive Research Forum.

Attrition

The California Public Employees' Retirement System 3% at 50 plan has delayed the retirements of many senior law enforcement leaders. These leaders continued to work for an additional three to four years in order to achieve the maximum retirement benefit available. This created a double-edged sword. On one hand, these leaders stayed longer not only to increase their retirement with the relatively new 3% at 50 formula, but to ride the economic wave of the late 1990s. On the other hand, many other leaders in the organization continued to age and neared retirement simultaneously with the first group. It is clear that at

some point in time, a tremendous number of leaders will choose to retire within a few years of each other, leaving a large chasm to be filled with new leaders.

Generational Influence on Police Chief Recruitment

The oldest Generation Xers are now in their early to mid-forties. In 2001, the median age for a police chief to be appointed in California was 43.5 years old. Thus, Generation Xers are just beginning to move into the police chief ranks. Generation Xers will make up the entire labor pool of future police chiefs in just a few short years. Herein lies the problem. There is a considerable difference between Generation Xers and Baby Boomers. The Generation Xers typically have a skeptical outlook, a balanced work ethic, and are unimpressed with authority. Most importantly for this issue, the Generation Xer is reluctant to commit. This reluctance to commit combined with the realization that an employer can and will “throw you out of your job without warning, logic, or even an apology,”^{89 90} makes the use of employment contracts a very important tool for the recruitment and retention of these Generation X police chiefs. The author believes the generational component is one a reason why the use of contracts will be much more important in the future as a tool to recruit and retain police chiefs.

⁸⁹ Ron Zemke, Claire Raines, Bob Filipczak, *Generations at Work* (New York: American Management Association Publications, 2000).

⁹⁰ Irv Gamel, *Understanding and Leading Generation Y*, Command College lecture and handout material, 2002.

Education

In 1999, the International Association of Chiefs' of Police President's First Leadership Conference developed a number of recommendations for "Achieving & Sustaining Executive Success" in the 21st Century. Among other items, the Conference addressed how law enforcement could better prepare for the executive role. One section focused on education.

Chief executives must bring a strong foundation of education to the job. Survey contributors overwhelmingly recommend a minimum of a bachelor's degree to lead an agency of under 100 employees. A third of the contributors believe a master's degree constitutes proper and adequate educational preparation to lead an agency of 100-500 employees. A distinct majority, 74%, believes a master's degree constitutes proper and adequate preparation to lead the largest agencies in the country.⁹¹

There are a number of agencies that have made the transition towards a baccalaureate degree as a minimal degree for an entry-level peace officer. It seems reasonable then that senior police management would be required to possess a higher level of education than simply just entry-level requirements. Those senior managers aspiring to become a police chief must take heed. If they do not possess a graduate degree, the applicant is likely to be at the back of the pack, trying to simply limp across the finish line, as opposed to trying to win.

⁹¹ International Association of Chiefs' of Police, *Police Leadership in the 21st Century; Achieving & Sustaining Executive Success*, Recommendations from the President's first Leadership Conference, May 1999, 16.

Futures Forecasting

A Nominal Group Technique panel generated fifty-nine trends related to the issue at hand. These trends were narrowed to ten, and then a process of evaluation and analysis was applied. The highest concern among the panel members was the desire to stay in the number two rank (captain, commander, deputy chief) and not promote to chief. The panel believed this trend would continue for at least ten years.

There was only one trend in which the author disagreed with the panel. This was Trend Nine, the existence and use of a succession plan. While the panel believed in the importance of the use of a succession plan, the trend identified by the panel can best be described as “ideal.” That is, the use of succession plans are being used regularly now, and will continue to be used at an increasing rate into the future. Undoubtedly, this is what should be occurring in all organizations, and what needs to happen in the future in order to continue preparing for the future. However, in this author’s experience, formal succession plans are not being used regularly, and it is doubtful the use will increase much at all. While the need for succession planning has likely been discussed by a majority of organizations, the actual planning and implementation is usually placed on the proverbial back burner. Others to lecture in this field agree with the authors’ viewpoint.⁹² Organizations must prepare their future leaders to lead. It is not acceptable to simply hope that somebody will be ready to step into a new leadership role. Yet in this author’s experience, this is exactly what many

⁹² California Police Officers’ Association seminar, *Building Leadership in Your Organization*, November 6, 2001.

agencies do. Proper succession planning is difficult and time consuming to accomplish, but is critical to an organization's future health.

Other critical issues identified by the panel were the benefit package offered to a chief and the number of applicants for a Chief vacancy. Nine of the trends showed a steady increase from five years ago to ten years in the future. One trend, the number of applicants for a police chief vacancy, decreased for a ten-year period, before rising five years from now. The number remained close to the mean. In other words, the panel believed there would not be much change in the number of applicants. This is problematic because the number of retirements is projected to increase significantly.

Next, the panel generated thirty-six events that could influence the issue of how employment contracts might affect police chief recruitment. Again, these events were whittled down to ten, and then evaluated. Of these events, the panel believed two had the most significant impact. The two events that stood out were the legislation permitting civilians to become police chiefs, and a recruitment in which no qualified personnel submit applications for a chief vacancy.

Utilizing the research and Nominal Group Technique panel discussions, the strengths, weaknesses, opportunities and threats were identified and discussed. One of the greatest strengths is the ability to articulate expectations of performance in a contract, leading to a better working relationship between the parties and better leadership. A significant weakness is the fear of giving up

control by providing a chief executive with a contract that provides a for-cause termination and/or a severance package.

There are a number of opportunities outside the organization. These contracts are used extensively in private industry, and they have been used successfully by about 15% of California municipal law enforcement agencies. Threats from outside the organization include the publicity surrounding employment contracts abused by the top management of the City of South Gate, and California police chiefs with employment contracts are still in the significant minority.

Finally, a stakeholder analysis was conducted. Key stakeholders were identified, discussed, and evaluated. Not surprisingly, the city manager and city council were the two stakeholders with the most control over the issue of employment contracts and police chief recruiting.

Transition Management

Transition management emphasized the ability to influence the two essential stakeholders – the city manager and city council. Much of the influence came from early education about the future dilemma facing police chief recruitment, and the benefits an employment contract has in meeting this challenge.

Conclusion

There are difficult times ahead for the executive leadership of law enforcement. One question needs to be asked up front when considering the appointment of a new police chief to fill a vacancy. Is the organization simply looking to fill a position, or is the organization seeking a highly qualified individual to lead their organization in the future? The question seems simple on its face, but one cannot simply jump to conclusions.

This author is familiar with a small agency city manager who called in a two-year sergeant and asked him if he wanted to take on the chief job, as his chief was departing. This sergeant, with a total of less than eight years in law enforcement and no management experience became the police chief. If an organization is comfortable moving in this direction, the issue of employment contracts as a way to affect police chief recruitment is a moot one. This is because police chief recruitment is not really a concern. So long as there is an applicant on hand and willing to take the position, the agency will not have a recruiting problem.

As stated earlier, the Nominal Group Technique panel did not believe there would be a situation in which there was not a single, minimally qualified applicant willing to take a police chief job. However, for an agency looking for more, the issue is still looming. There will be fewer qualified candidates willing to move into the police chief rank. It would be a breakthrough of gargantuan proportions if a way to eliminate the politics, the stress, the concerns, the level of pay, benefits and working conditions were found. If the police chief position had

all of the same positive benefits as the number two position, the issue of this project would be moot. Sadly (yet understandably), the role of the police chief will never be this simple. As a result, different mechanisms are needed to draw the highly qualified captains, deputy chiefs, and commanders up into the police chief rank.

Taking into account all of the concerns, combined with an understanding of the influence of generational sociology, a municipality can effectively eliminate several of the concerns holding these future leaders back. The fear of being unemployed due to a change in city council makeup or the appointment of a new city manager, being unable to draw an income from the retirement account, and the fear of being innovative, thinking “outside the box,” and making the tough decisions can be eased by use of an employment contract. An employment contract can provide a for-cause termination requirement, or at a minimum, can provide for severance pay. The fear of not knowing what expectations the chief is required to live up to can be dismissed by including them in the employment contract. Providing an employment contract can increase the number of applicants attracted to a position. There has to be a reason why the International City Management Association, the International Association of Chiefs of Police, the Police Executive Research Forum, countless executive recruiters, and police chiefs themselves all support the use of employment contracts. The reason is simple. They work. They provide a win-win situation for employer and employee. They provide the foundation for better policing. The side benefit to an employment contract is the positive effect it will have by increasing the number of

highly qualified candidates involving themselves in future police chief recruitments.

The Future

How will the employment contracts affect medium size urban agency municipal police chief recruitment by 2008? Provided the use of employment contracts become increasingly more commonplace, their use will increase the number of quality candidates applying for police chief vacancies. In addition, the use of employment contracts should help retain quality police chiefs.

The general rule in risk management is that if something “is predictable, it’s preventable.”⁹³ So far, the research presented has demonstrated that a large number of experts in the field have predicted an increasing exodus of police chiefs and senior police leaders. This will present a vacuum in which there will not be sufficiently qualified candidates willing and able to move into the police chief ranks.

There has been some progress in the area of employment contracts in the law enforcement field. While employment contracts have been common in the business and industry domain for a long time, the concept of providing employment contracts for chiefs of police is relatively new.⁹⁴ In essence, the paradigm has already shifted. While not a new concept in and of itself, it is a

⁹³ Gordon Graham, *American Law Enforcement 2003: Risk Management* (inter alia), handout at the California Police Chiefs’ Association 26th Annual Conference, 11 February 2003, 6.

⁹⁴ Sheldon Greenburg, Ph.D., *On the Dotted Line: Police Executive Contracts*, (Washington, D.C.: Police Executive Research Forum, 1992), 88.

new concept for law enforcement. And as typical in paradigm shifts, this one started outside the trade. Joel Barker tells us that when a paradigm shifts, “we all go back to zero.” Now that our profession is back to zero, we need to plan for the future.

APPENDIX ONE

Nominal Group Technique Panel Members

- Ms. Chris Blasetti City of Cypress, Personnel Department
- Dr. William Eller Superintendent, Cypress School District
- Mr. Don Gras Vice President, Forest Lawn
Cypress Chamber of Commerce member
- Mr. Chuck Hansen Cypress Auto Tow
Chamber of Commerce board member
- Mr. Mike Idom Lieutenant, Cypress Police Department
- Chief Michael McCrary Police Chief, Los Alamitos Police Department
Consultant, Lewis & Associates
- Mr. Eric Middleton Maximus, Los Angeles
Executive recruiter
- Mr. Sean Oliver Collaboration
A leadership and coaching firm
- Mr. Scott Tidemann Attorney, Liebert, Cassidy & Whitmore
Labor & employment law for public agencies

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APPENDIX TWO

COMPLETE LIST OF TRENDS FROM THE N.G.T.

1. The importance of leisure time for police personnel
2. Lack of tenure of current police chiefs
3. Average level of education of police managerial employees
4. The ability and/or desire of a police chief or police chief candidate to move from one geographic area to another
5. The number of promotions to chief by inside candidates as compared to the number of promotions to chief by outside candidates
6. “Flattening” of the organizational structure by eliminating middle-manager ranks
7. Shift towards team based/collaborative leadership
8. The number of civilian applicants for police chief positions
9. Career options and desire to work same for retired police chiefs
10. The ability and/or desire to earn dual income after retirement from law enforcement
11. The number of retired/active police chiefs working as consultants
12. The need for a chief to be technologically savvy due to the impact of emerging technology on law enforcement
13. The number of agencies working a compressed work schedule
14. The lack of broad leadership experience throughout the organization by police chief candidates

15. The necessary level of education of the police chief
16. The lack of flexibility in team building for the executive staff
17. The level of pay for a police chief
18. The family disruption caused by taking a police chief position
19. The average age of newly appointed police chiefs
20. The aging of the law enforcement work force
21. Generation X employees moving into the ranks of police chief
22. The application of term limits of police chiefs
23. The influence of labor unions upon police chief recruitment
24. The term limits of state and local politicians
25. The community driven pressure for a certain law enforcement approach
(as opposed to organizationally driven direction)
26. The legal rights of peace officers as they extend to a police chief
27. The desire to stay in the #2 rank in the organization instead of promoting
to police chief
28. The resistance of staff to accept change
29. The level of moral in the organization
30. The influence of the Internet on the organization and its employees
31. The ease of comparing salaries and benefits or other law enforcement
police chiefs
32. The residency requirement of a municipality for a police chief
33. The disparity of contract benefits between agencies
34. The ability of the city to pay for competitive salary and benefits

35. The provision for payment of relocation benefits
36. The type of contract benefits provided
37. The ability to provide alternative forms of compensation other than salary
38. The future of law enforcement services (e.g. COPPS vs. traditional law enforcement)
39. The number of police chief applicants
40. The desire for a candidate to move to a larger agency
41. One police chief providing oversight for multiple agencies
42. The overall quality of the community
43. The overall quality of the agency
44. The reputation the public has of the agency
45. The type of chief needed (e.g. slow & steady or a change agent)
46. The existence of a succession plan
47. The rate of police chief turnover
48. The use of civilian Chief Executive Officers as police chiefs
49. The level of "people skills" possessed by police chief applicants
50. The expanded responsibilities assigned to a police chief, outside the typical law enforcement duties (e.g. Parks & Recreation, Animal Control services)
51. The departments expectation of the new chief of police
52. The cooperation between adjoining agencies
53. The ability to gather intelligence interdepartmentally
54. The direction the labor union is trying to move the organization

55. The “specialization” of the law enforcement functions (i.e. from generalists to specialists)
56. The utilization of executive development programs (e.g. Command College, F.B.I.N.A., LEEDS, PERF/SMIP)
57. The chief candidates experience providing police services in a diverse community
58. The existence of a pay-for-performance program by the employer
59. Whether the agency can terminate a chief at-will

APPENDIX THREE

COMPLETE LIST OF EVENTS FROM THE N.G.T.

1. The Supreme Court (or other appellate court) determined that public employees cannot enter into an employment contract
2. 3% at 50 retirement program
3. The terrorist attack on the World Trade Center on September 11, 2001
4. A major natural disaster effecting the municipality of employment
5. A multijurisdictional crime wave, such as the D.C. sniper attacks in 2002
6. A major terrorist attack in the municipality of employment
7. A significantly publicized scandal/event (e.g. Rodney King) occurring in the municipality of employment
8. A civilian police chief is appointed
9. The applicant has a significant family event (e.g. death, divorce)
10. The Legislation allows for a civilian police to become a police chief
11. A municipal election causes a majority city council change
12. The appointment of a new city manager
13. The State discontinues funding to the local agencies
14. A hiring freeze is imposed on the agency
15. There is a change in the way the State allocates funding to local agencies
16. A change occurs in the form of municipal government (e.g. city manager to city administrator)
17. The chief position becomes an elected position

18. The police department folds, and the municipality contracts with the Sheriff to provide police services
19. The police department takes on providing other municipal services
20. A long tenured police chief leaves an organization, causing term restrictions to take effect (e.g. Gates at the Los Angeles Police Department)
21. A significant internal scandal occurs in the employing municipality (e.g. theft of drugs, sexual harassment)
22. The Legislature passes a 100% salary retirement benefit cap
23. The retirement plan drops to a lesser program (i.e. back to a 2% at 50 program)
24. The Legislature drops the salary cap for retirement benefits back to 75%
25. The municipality refused to offer an employment contract
26. There are no qualified applicants for a police chief vacancy
27. The city manager is not qualified to pick a new police chief
28. An applicant files suit against an agency over the terms of a contract
29. The Legislation provides police chiefs with civil service protection
30. A police chief is forced by a municipality to pay punitive damages stemming from a lawsuit
31. An organization is formed to develop a pool of qualified candidates for agencies to draw from (i.e. central recruitment pool)
32. POST raises the minimum requirement to become a police chief (e.g. requiring a Bachelor's degree)

33. POST lowers the minimum requirement to become a police chief
34. POST is no longer funded, and thus dissolves
35. The hiring agency abandons community policing for traditional routine patrol
36. A minimum and/or maximum age requirement is instituted for a police chief

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