

**WHAT WILL BE THE IMPACT OF MEDICINAL MARIJUANA ON THE
SAN JOSE POLICE DEPARTMENT BY THE YEAR 2003?**

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

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What will be the impact of legalized medicinal marijuana on the San Jose Police Department by the year 2003?

By its very nature, law enforcement is often tasked with identifying and pioneering community efforts on contemporary and future issues. This role has been called upon more frequently and with more vigor, particularly in the San Jose Police Department, as the concept of Community Oriented Policing has taken hold and been engrained as the organization's "philosophy of policing."¹ The manner in which the police organization responds to critical social issues can influence the level of trust the community has in their police department, thereby affecting the overall effectiveness of the police as they serve their community. It is also generally understood in management circles that the best way to respond to critical issues is to not respond at all, but to be proactive, make the appropriate investments and relationships, and anticipate the short-, mid-term, and long-term effects the issue will have on the police organization and on the community. Failure to do so can be disastrous.

Perhaps nothing in the last year has, or will continue to, challenge the ability of law enforcement officials to anticipate the affects of a social and political issue as that of the legalization of marijuana for medicinal purposes, better known as Proposition 215. This Proposition, passed by a majority of California voters in November 1996, is wrought with emotional controversy, political impact, opportunities for profit, vague scholar and legal interpretation, and unknown social consequences. There exists little history to reflect on for guidance and direction.

The premise of this article is that the legalization of medicinal marijuana, coupled with the manner in which the law was enacted—by referendum resulting in legal ambiguity—poses a management and leadership challenge to the San Jose Police Department. Balancing and considering the will of the voters, the conflicts between state and federal law, ensuring the safety of the community, authoring and enforcing local regulations and ordinances heretofore unprecedented, dealing with the law’s influence on youth, preventing an influx of organized crime, and a myriad of other pragmatic issues will all contribute to the ultimate effects that legalized medicinal marijuana will have on the San Jose Police Department.

In this article there are a variety of major to significant issues relating to the implementation and enforcement of Proposition 215 that are identified. The purpose of the article is to understand the future impact that medicinal marijuana laws will have on the San Jose Police Department over the next five years. The reader will find background information that provides historical development of Proposition 215 and reasons why this issue is important to study. This is followed by a scenario, based on trends and events, that has been determined to be very, if not most, likely to occur. A basic strategy plan and transition management plan will be proposed. Implications for leadership within the San Jose Police Department will be identified, followed by recommendations.

BACKGROUND

Historical Development

In November 1996, the voting majority in California passed Proposition 215, also known as “The Compassionate Use Act of 1996.” The law is identified in the California Health

and Safety Code as Section 11362.5.² In summary, the law became effective January 1, 1997. It provides that patients who possess or cultivate marijuana for medical treatment as recommended by their physician are exempt from general provisions of law. The law provides for caregivers, and states that the process must be “affordable.” It also states that physicians who recommend use to their patients may not be punished or denied any right or privilege. The method of recommendation, type of medical condition, type of physician, and other elements of the law are far from absolute. The law is in direct conflict with federal guidelines and statutes. Interpreting and enforcing the statute is problematic for law enforcement in and of itself because of the vagueness of language and the liberty that may be taken, depending on one’s perspective when interpreting what is documented. This will be discussed later, particularly with regards to local ordinances, regulations, and issues that face the community. Albeit, the law has in essence and in foundation provided that persons who receive some type of “physician’s” recommendation to use marijuana for their medical condition may in fact do so. Patients may also cultivate for their own use.³ Perhaps many in California law enforcement had not seriously considered that they may one day be in the position of not only negating the enforcement of some marijuana laws, but be part of the process to ensure the laws regarding the legal use of marijuana are implemented responsibly.

A review of history will help the reader to better understand what occurred for Proposition 215 to become law, and where the law and attendant enforcement procedures stand now. Drug regulation specific to California started with the State Poison Act in 1907. Marijuana was made unlawful and included in this Act in 1915. In 1929, the

State Narcotic Act was developed with the intent to regulate the sale, possession, distribution, and use of habit forming narcotics. Marijuana was included in this Act, which was incorporated into the State Health and Safety Code in 1939. In 1961 the State of California took a hard line by mandating felony sentences for violation of these narcotics laws, to include marijuana. In the decade that followed, the populace witnessed the most significant change in drug law in the State of California. The maximum penalty for marijuana possession of less than one ounce changed from a possible ten year prison sentence to no more than a \$100 fine.⁴

It is important to note that the decriminalization that occurred in California followed a 1975 Alaska State Supreme Court decision—the Ravin Decision—whereby their court ruled that adults had a right to privacy under the Alaska state constitution which outweighed the state’s interest in banning marijuana. Ultimately, state law was passed that permitted adults in Alaska to possess up to four ounces of marijuana at their home for personal use.⁵ About this same time, Oregon and Maine also decriminalized marijuana.⁶ However, as will be discussed later, the Alaska law provided for dire consequences (particularly a huge increase in marijuana abuse by youth) and marijuana was eventually recriminalized by the voting public.⁷

Since the mid-1970’s, there has been ongoing debate, primarily in the media, regarding either the further decriminalization of marijuana or the outright legalization of it. Prior to the dilution of California law in 1976, a group named the National Organization for Marijuana Legalization (N.O.R.M.L.) was founded by Keith Shoup, with the intent of “challenging unjust marijuana laws..., providing reliable information to

politicians, attorneys and educators...., and expected to be an activist organization.” Their ultimate goal was the legalizing of marijuana.⁸ This organization is probably the most recognized pro-legalization name in the country. Directors of this organization have been heard to say, “The key is medical access. Because once you have hundreds of thousands of people using marijuana under medical supervision, the whole scam is going to be brought up...then we’ll get medical, then we’ll get full legalization.”⁹ Several other organizations such as Help Eliminate Marijuana Prohibition (H.E.M.P.), Cannabis Action Network (C.A.N.), The Green Panthers, and The Alliance for Cannabis Therapeutics (A.C.T.) have all followed suit with the same basic agenda as N.O.R.M.L.¹⁰ As efforts became more aggressive and as the topic received more discussion in California, legalized medicinal use of marijuana received the attention of the media. Pro-Proposition 215 groups were formed, significant community leaders lent their name to the cause, symposiums were held, and tremendous amounts of money were donated to sponsor the media campaign. The pro-Proposition 215 campaign was supported, in part, with over \$1 million dollars contributed by billionaire George Soros for the California and Arizona campaigns.¹¹ Information derived from a campaign page on the Internet states that former San Jose Police Chief and research fellow at the Hoover Institute, Joseph McNamara, publicly endorsed the Proposition.¹² Endorsements from the medical community, such as that from Dr. Marcus Constant, a San Francisco based doctor who has treated over 5,000 HIV-positive patients, clearly played a role in the furtherance of Proposition 215.¹³ The campaign was sustained by support from the media. An exemplar, taken from a San Jose Mercury News editorial page, criticized the arguments against medicinal marijuana and

supported / encouraged support for the proposition months before the November 1996 vote.¹⁴ After the vote, medicinal marijuana was supported by the New England Journal of Medicine. Dr. Jerome P. Kassirer, the journal's editor-in-chief, wrote that he believed federal policy which prohibits physicians from alleviating suffering by prescribing marijuana for seriously ill patients is misguided, heavy-handed and inhumane."¹⁵

Collectively, the arguments for proponents of Proposition 215 were, and are, that smoking marijuana provides relief from nausea related to chemotherapy and is helpful in treatment of AIDS, glaucoma, multiple sclerosis, spasticity, chronic pain, and so forth. They argue that the legal prescription Marinol, which is orally ingested, is not as effective as inhaling marijuana because the dosage is inflexible, it makes the patient sleepy, and testimony from smokers indicate that in many cases inhaling is the better way to use marijuana. Proponents do not believe that there is any more room for abuse or negative effect on youth with the legal medicinal use of marijuana laws as there is for other prescription drugs.

As the drive for the legalization of medicinal marijuana was becoming a real issue in California, several organizations began a campaign designed to enlighten and educate the public about the effects of marijuana and arguments against its legalization in any form. Volumes of information were published in an effort to counter the arguments of proponents and to educate the public about the documented realities of marijuana use. For example, the Community Anti-Drug Coalitions of America (C.A.D.C.A.) published a tremendous amount of information regarding the issue. Included was information from documented studies that 12-17 year olds who smoke marijuana are 85 times more likely

to use cocaine that those who do not. They also cited the effects of the decriminalization in Alaska referred to earlier in this article. The results in that state indicated that, thirteen years following the Raven decision, youth in the age group from 12-17 years in Alaska were smoking marijuana at more than twice the national average. Finally, the C.A.D.C.A. stated that of over 12,000 scientific marijuana studies published to date and on file at the University of Mississippi, there is no conclusive evidence that smoked marijuana is safe or effective for the treatment of any condition.¹⁶ The Drug Enforcement Administration (D.E.A.) spoke out against the legalization of any illicit drug, because to do so would reduce the perception of risks and costs of use, availability and access would increase, and use-abuse-addiction would increase. D.E.A. also argued that crime, violence and drug use go hand-in-hand, now is not the time to abandon our efforts (in the drug wars), and increased use due to legalization would lead to increased addiction levels.¹⁷ Thomas J. Gorman, the Deputy Chief of the California Bureau of Narcotic Enforcement, indicated as part of his publication, "Marijuana is not a Medicine" that the "marijuana as medicine" movement has as its agenda the legalizing and / or weakening of current marijuana laws, anecdotal evidence...often heart-wrenching is unreliable, and major medical and health organizations have discounted marijuana as having significant medicinal value and concur it has serious harmful effects.¹⁸ Many, many other organizations have published information regarding the affects of marijuana and the validity or invalidity of "medicinal use." These include, but are not limited to, the Capital Research Center, The Center for Dependency Disorders and Chronic Pain, Police Chief magazine, and Citizens for a Drug Free California. The California Narcotic Officer's Association and General Barry

MaCaffrey, the Director for the Office of National Drug Control Policy, have been very vocal about their stance against the proponent's arguments regarding medicinal marijuana.¹⁹ The C.N.O.A. has had the posture that the voting public may not have known exactly what they were voting for in November 1996. To determine whether this was true or not, the Association commissioned a study with the Charlton Research Company in February 1997. Two startling results were that the majority of those polled indicated they would strongly favor waiting for the completion of an eighteen-month study before determining whether or not to implement Proposition 215, and the majority strongly opposed the legalization of marijuana.²⁰

Although this article does not do justice to either "side" of the Proposition 215 argument, the reader can get a flavor for some of the arguments and persons / organizations that were very much involved in the process. History will show that Proposition 215 did pass the muster of the voters and as of this writing, is law. However, as eluded to earlier in this article, the law is clearly ambiguous and subject to different interpretations. Many questions have been raised as a result of its passage. Most have yet to be answered. Those that are answered serve to foster even more questions. For instance, is transportation of marijuana legal? According to Karen Sinunu, Assistant District Attorney for Santa Clara County, virtually all transportation is illegal even with Proposition 215, except for that which is done out of "legal necessity."²¹ However, because it is illegal does not mean that department executives will enforce these laws when medicinal use is at issue. In efforts to balance the will and priorities of the public with the law, transportation laws may turn out to be a minimal priority with regards to

enforcement and resource allocations.²² Issues surrounding cultivation, transportation, packaging, on-site security, quality control, amounts in storage and able to be sold, record keeping, types and records of doctor's referrals, sales for profit, transportation, age limits, weights and measures, licensing, and many other issues, heretofore never entertained by law enforcement officials, are now being addressed by the San Jose Police Department; forging new ground in arenas that will undoubtedly be reviewed by the courts.²³

Why is this issue important to study?

There are four primary reasons why this issue is important to study for the San Jose Police Department. The first is, as documented earlier in this article, marijuana has been illegal in virtually any form in the State of California since 1915. Decriminalization and legalization of laws and acts which have been illegal for 82 years will cause a huge paradigm shift, from the top executive to the midnight patrol officer. This includes enforcement, administration, management and leadership. Second, in the City of San Jose, we enjoy a relationship with the community based on trust and cooperation. We will be trusted by the community to ensure they are involved in the implementation of legalized marijuana laws and enforcement practices, and to develop laws and regulations which will be enforced with balance and judiciousness. To do this successfully will require foresight and an understanding of all the significant issues. Third, as the most visible branch of government, and recognized as long-term problem solvers and change agents (earned through our community policing efforts), the police department serves as a community leader. Our identification and anticipation of social, economic, political, and

environmental issues as they relate to this new law, and how we choose to react to the new law, will most probably influence other community leaders and ultimately affect an appropriate outcome. To do this effectively and responsibly requires knowledge. A source this author cannot recall once stated "For a system to preserve it's integrity and survive, it's rate of learning must at least equal the rate of change in its environment." Finally, the San Jose Police Department has an ethical obligation to the community it serves to ensure it's member's safety and well being. This new law has the potential to negatively and positively affect the community over the short and long term. Because of this, it is critical that the organization remain contemporary in its knowledge and effects of the law.

SCENARIO

"Not bad at all" he thought as he set the brake on the new "Crown Vic." Bill Powers had just finished completing his first voyage of the day, driving in commute traffic and finally making it to his reserved parking space at the steps of his third floor office. The freeways had grown smaller over the years, and even his position as Assistant Chief for a 1,900 person law enforcement agency did not alleviate the congestion; no R.H.I.P.* in the asphalt jungle. As he labored up the steps and through the electronically secured doors leading to his office, it crossed his mind that he had to be sure and get off of work on time. It was his daughter's fourteenth birthday, and the family was celebrating by having a picnic at Vnaaso Park. The warm July weather would make for a nice evening, maybe

*rank has it's privileges

even a chance to try out his sea legs on the new family canoe. “My God, can you believe it’s already 2003?” he thought to himself. Seven months to retirement and then “Sierra Nevada, here I come.” But for now, it was time for business.

“Good Morning Chief.” His secretary Diane had greeted him each morning with the same welcome. Folks of her caliber were few and far between, and not appreciated nearly enough. He made a mental note to pick up some flowers as a “thank you” for her hard work on the Management Report over the last couple of weeks. A quick glance at his calendar reminded him of the most important event of the day: a meeting with Department and community representatives regarding a review of the effects Proposition 215– the legalization of marijuana for medicinal purposes–has had over the last five years. Several months prior, the Chief of Police had asked Powers to represent the Department on a Senate sub-committee which was reviewing 11362.5 of the Health and Safety Code. Rumors were abound that the Governor was considering throwing her support to the feds by encouraging the repeal of Proposition 215 and somehow sponsoring unique legislation that would address far better control and distribution of marijuana through the Federal Drug Administration (F.D.A.). Today was Powers’ last in a series of meetings designed to get a real-life historical, as well as a “snap shot in time,” perspective. He needed to know what the impacts had been on the community, and thus his Department, who the snail darters and the stakeholders were, and who the critical mass actors have been and would be if further significant change in the law occurred.

The Assistant Chief was a stickler for getting started on time, even if the coffee was not yet ready. When the second-hand crossed the twelve, he called the meeting to order. Each representative or group of representatives had been asked to prepare a brief presentation regarding the impacts that Proposition 215 had in their respective arenas of responsibility. If appropriate, his Department commanders were to address how the issues discussed today had impacted their police organization.

A detail comprised of the City Human Resources Director, the Peace Officer's Association President, and the lieutenant from Police Personnel were prepared to discuss issues, trends and events that had occurred with regards to City employees. The Human Resource Director started by commenting that in 1997, when the law came into effect, there was no precedence for it. Her office took a wait-and-see attitude. As it became obvious that City employees—Parks and Recreation, Public Works, etc.—were using marijuana for medical maladies, those department heads complained to Human Resources that an inordinate amount of sick time was being used well above what would normally have been used for illnesses. They subjectively contributed this to the effects of marijuana. They felt that although their workers were using marijuana for medical purposes, the effects of use itself was causing them to be away from the workplace longer than if it were not used at all. The rate of industrial accidents had increased at an average pace of 20% a year for the first couple of years. The City then adopted a policy—negotiated with the appropriate unions and associations—that all employees who used marijuana had to have a written recommendation from their doctor, the City doctor had to conduct an exam, and if the employee had an illness serious enough to warrant marijuana

use, their supervisors had to be informed and they would be placed on formal disability status. These policies were reinforced by the local superior court and had not been appealed. She stated that over the last three years the rate of accidents and sick leave had decreased markedly, but that disability time had definitely increased at an inordinate rate. This, in turn, had a direct correlation to the average hours worked per year and the level of productivity of varying departments. The Director of Human Resources estimated that approximately 15-20% of City employees used marijuana for medicinal purposes at some time over the last one-year period. She complimented the Chief of Police on the Department's assistance in training other City department supervisors and managers in marijuana pharmacology and signs of abuse, and the police efforts to criminally investigate illegitimate use by city employees. Her final comment was, "If it was not for the contract language and the police departments efforts, who knows where we would be"

Assistant Chief Powers called on the Police Personnel lieutenant for his comments regarding what the organization had experienced as compared to the information presented by the Human Resources Director. The Personnel lieutenant said that at the time the law was enacted, the Department already had policies surrounding the use of legitimate, medically prescribed "mind altering" drugs. Marijuana was added to this policy via a general order signed by the C.O.P. It stated that any Police employee who used marijuana would have to report it to their supervisor just as if they were using any other significant prescription drug. Prior to 1997, a random drug testing policy had been negotiated with the P.O.A., and since that time the Chief's office had mandated that the rate of testing be upgraded five-fold. This was expensive, caused anxiety among the

employees, and was closely scrutinized and criticized by the P.O.A. The Chief had also made is policy that no Police personnel were to possess marijuana while on-duty or on City property unless it was for work-related purposes. A law had also been passed by the federal government in 1999 that addressed Proposition 215 in the work place. It mandated that government employees in a public safety position could not work for at least 72 hours following the use of marijuana. Assistant Chief Powers wanted to know how the San Jose Police Department compared with other police organizations. The Personnel lieutenant stated that the City policies coupled with the federal law had alleviated a lot of the problems being experienced in other jurisdictions—dramatic increases in sick and disability time, measurable decreases in work productivity apparently due to apathy and fatigue, and officers choosing to enforce only the most heinous of marijuana law violations.

The Assistant Chief could not hold back a smirk as he asked for the thoughts of the P.O.A. president. They had been car partners many years back. Different experiences had led each of them in different directions with their careers. While they had mutual respect for each other—each had pulled the others’ fat out of the fire more than a few times—this was still business. Powers was ever wary of an agenda. The P.O.A. president summarized that there were two primary issues he felt were directly related to Proposition 215. The first was that the Chief and the city were unfairly and indiscriminately holding Police personnel to a different standard. He felt that the Americans with Disabilities Act made the actions by the Department administration illegal, particularly the possession of marijuana policy and the increases in random drug testing. He felt it was time to re-open

negotiations on the subject because the M.O.U. was agreed on by a past P.O.A. administration. Second, he said that the demands on police officers in the 21st century were responsible for extreme stress and resulting physical ailments. He predicted the Department administration could expect medicinal marijuana use to increase dramatically over the next few years, particularly as officers who were being hired had grown up in a more “drug relaxed” environment. The P.O.A. president looked at Powers and said, “If we’re not careful and judicious, the younger officers of today will be using marijuana like you and I used to drink a beer, and your policies are only going to cripple the Department. Let’s face reality and work toward positive resolution rather than creating friction.” Powers cringed at the thought of marijuana somehow becoming that commonplace. But, the P.O.A. agenda had become clear; weight the importance of the marijuana issue and then use it as a throw-down at the next negotiations.

The City’s budget director, Ms. Dolittle, had been invited to attend the meeting to re-cap what economic effects the law had on the financial health of the City. Assistant Chief Powers had long felt that the economic impact of Proposition 215 as it related to the City coffers was important to consider, particular in these lean times. Ms. Dolittle was calculating and to the point; revenue from Proposition 215 was generated primarily from the marijuana dispensaries. The funds came from a special business tax (due to the extra monitoring and involvement by the Planning division), special use permits, transportation permits, and licensing / backgrounding fees for dispensary employees. In addition, the City has seen more funds from income taxes as more marijuana has been purchased from the dispensaries over the last few years. From the City’s budget office perspective, the

financial cost of allowing dispensaries to operate as compared to the income they generated for the city was acceptable. The cost-benefit analysis and the asset-to-debit ratio, when no other factors were brought into the equation, made Proposition 215 a benefit to the community. Chief Powers was lost in thought as he considered the fact that over the last five years he had been tasked with assigning numerous officers the responsibility of training community and government members, auditing and monitoring the dispensaries and cultivation sights, reviewing and making recommendations for security issues at the dispensaries, and having his personnel engage in ongoing liaison with other government agencies to ensure ethical obligations to the community were being met. And what about the cost of criminal investigations and calls-for-service directly related to marijuana use? He couldn't help but think that all of these costs were absorbed in the Department's budget; the new laws had not been accompanied by commensurate funding and the City had not provided any additional monies in personnel costs. But, that had been the trend in the late 90's and at the turn of the century. In addition, no consideration had been given to the increase in the amount of sick and disability time some of his personnel were taking as a result of their use of marijuana and their abiding by City and Department policy. If all of this were considered, would the budget director still consider Proposition 215 to be a financial benefit? Somehow, Powers doubted it.

In an effort to ensure he had a reasonable, global perspective of the issues that had developed over the last five years, Chief Powers had asked for two doctors to attend this final meeting. The first, Dr. Schwartz, was the director for the U.C. Davis Research

Group. He had been responsible for research and study of the possible detriments and benefits of marijuana use by people with medical problems. His staff had been performing as a result of a grant awarded by the California legislature. Dr. Schwartz was forthright in his presentation. While the results of testing over the last four years were still considered preliminary by the medical community, he felt there "existed real promise for seriously ill patients. Preliminarily, we have found that inhaling marijuana for many patients, particularly those who have undergone radiation and chemotherapy, had in fact decreased level of nausea, increased appetites, and allowed rest to come easier." He indicated that his group was preparing an article for the Journal of American Medicine with the intent of postulating that smoking marijuana does have very clear medical benefits and should be considered as a legitimate alternative to other drugs, including Marinol, by this country's doctors. In his opinion, it was not stretching the truth too far to state that in some cases, marijuana had probably saved lives. He was emphatic, though, in balancing his argument. He said there existed well over 400 dangerous chemicals in marijuana and that it should only be discriminatly used by very seriously ill or terminal patients. Marijuana was the only "drug" known to be smoked, and the harmful effects far outweighed the benefiits of medical conditions not deemed to be grave. Dr. Schwartz then touched on the monetary costs to H.M.O.'s and to the community as a whole as a result of widespread marijuana use.

"Well," thought Powers, "that just about sums that up. It's pretty clear to me that through one process or another, marijuana is going to be with us for a long time." Any

idea that issues surrounding legalized medicinal marijuana would be rectified with the medical community finding it of no value for sick people would now be moot.

Dr. Williams was the Director for Health and Human Services of Santa Clara County. Chief Powers had heard over recent months that fears regarding a large increase of marijuana use by youth may have come to fruition. He was hoping Dr. Williams could address this. At first, Williams made efforts to support the statements made by Dr. Schwartz. He, too, had felt that there were indeed benefits for very ill patients when they smoked marijuana. He had heard testimony from many HIV-positive, AIDS, and cancer patients that supported the continued use of marijuana. Dr. Williams said that the State of California had experienced an approximate 18% increase in the number of juveniles aged 12-17 years who had smoked marijuana over the last five years. This equated to approximately 73% of the same age group who indicated they had smoked marijuana within the last four weeks prior to the survey. He indicated that juveniles who smoked marijuana were 88 times more likely to ingest more serious and harmful drugs, such as heroin, methamphetamine, and cocaine. He continued that several research groups throughout the country had documented without a doubt that marijuana was a gateway drug to a lifestyle that the average American would not consider healthy. He was not able to address the specific reasons why the increases had occurred; perhaps less education in the schools, decreased value structure in the home, the de-funding of D.A.R.E. programs, or children simply being products of the late 20th century with the attendant baggage. Upon the inquiry of Chief Powers, Dr. Williams did acknowledge the legalization of medicinal marijuana could be sending a "tolerance and acceptability message" to our

youth, dispensaries in some parts of the state were not firmly regulated, and thus marijuana was more available for the illicit user. Dr. Williams felt there was probably a significant degree of dissonance among California youth, due to the exceptional campaign efforts to ban tobacco use among youth, but at the same time in the late 90's, marijuana was further decriminalized. Chief Powers immediately commented that the latest study he had reviewed from the National Institute of Justice (N.I.J.) indicated that over 89% of juveniles admitted to juvenile hall tested positive for narcotics, to include marijuana, and that he could not help thinking that the increase in abuse as indicated by Dr. Williams was carrying over to larger work loads and cost-ineffective responsibilities for agencies involved in criminal justice. Dr. Williams wanted to emphasize that, in a somewhat unprecedented fashion, many junior colleges in California and Arizona were now offering programs for students to kick the marijuana addiction habit. Tetrahydrocannabinols (THC) levels in the 1970's were typically 1-2%, but by the late 1990's had been measured at over 28%, making marijuana very addictive and dangerous, regardless of the reasons for use. Finally, Dr. Williams stated that the correlation between birth defects, children-at-risk, and learning and emotional disabilities as they related to parents who regularly used marijuana were currently under study.

Assistant Chief Powers turned next to his commanders. This was turning out to be exceptionally informative, and he had a pretty good idea what his people were going to say. However, he wanted the rest of the audience to listen to the facts as they had come to be known to the Police Department during the last five years.

Lt. Dunbar was the program manager for the Intelligence Unit. He qualified his statements by saying he was limited in what he could reveal for confidentiality reasons. The findings of his investigators during the first two years of Proposition 215's life were intriguing. Organized crime syndicates had made aggressive efforts to broker marijuana and control the industry over Northern California. They viewed it as an excellent opportunity to launder money and engage in illegal sales and transportation under the guise of legitimate law. Only after the local police departments, B.N.E., and D.E.A. joined legislative and enforcement efforts to regulate and limit the size of cultivation plots, ensure maintenance of strict on-site records at dispensaries, enforce marijuana transportation laws while accommodating rare cases of transportation out of "legal necessity," and the assignment of full-time task forces for auditing and investigating purposes was organized crime frustrated and withdrew their efforts. Over the last three years, the general consensus has been that most of the illegal cultivation and sales of marijuana have occurred on a small scale, and that the concerted efforts by law enforcement to maintain firm regulation compliance have paid off. Lt. Dunbar noted that in 1997 and 1998, when Proposition 215 was taking hold, many jurisdictions simply refused to allow marijuana dispensaries to operate, and in fact, the A.C.L.U. had concurred with this stance. These jurisdictions had not experienced some of the issues he had cited.

The commander of the Special Operations Division, Captain Doug Johnson, had been asked to present information about the effects of legalized marijuana on his division's responsibilities. Capt. Johnson said that he had listened with great interest to the two doctors who had spoken earlier. Statistics collected by the Police Department's R&D

Unit indicated that there had been a progressive increase during the first three years of the law in the number of crimes, particularly juvenile crimes where marijuana was determined to be a factor, that uniformed patrol personnel had responded to. In 2001, then Deputy Chief Powers had commissioned a study to determine why this increase was occurring. The results, which were primarily determined through laborous follow-up and multi-disciplinary interviews, was that juveniles felt marijuana was “not that serious” and that “everybody did it.” Capt. Johnson felt that many community residents, including juveniles, were interpreting the Prop. 215 law incorrectly or tailoring it to suit their needs by suggesting marijuana was not illegal, resulting in an attitude of “so what’s the problem?” Some marijuana was being illegally obtained from the dispensaries under false premise. Capt. Johnson continued by stating at the conclusion of the study in late 2001, the Department’s Crime Prevention Unit obtained a grant which allowed the void of canceled D.A.R.E. funds to be filled. A media campaign was also launched. Field officers were directed to take a firmer stance on marijuana violations, and covert units initiated more investigations into illegal dispersal of marijuana from the dispensaries. The Department took a very firm approach to enforcement and intelligence gathering as it related to organized crime efforts and marijuana cultivation and brokerage. A county-wide inclusionary approach which involved virtually all cities and the county was adopted and fostered by the Department. These cumulative efforts bore some positive results ever since that time, but Capt. Johnson felt there was “plenty of room for our community to do a better job.”

Assistant Chief Powers engaged the group in brief follow-up discussion, particularly in an effort to reach some final collective opinion of the group. They all agreed that the use of marijuana was not going away, but for the health of the community—in particular its youth—there needed to be a process of distribution and procurement that was better regulated. The process needed to be such that only those persons who were seriously or gravely ill could seek medical help and doctors who felt marijuana could benefit their patients could prescribe it without fear of retribution from government officials. The dispersal system needed to be secure and quality controlled. All facets of the community had to remain involved in the process. Education programs were determined to be critical. The group agreed that the Police Department enjoyed the best position to lead renewed efforts. The best method the group could recommend would be for the F.D.A. to recognize marijuana as a drug –and if not, recognize it under some type of special legislative category—and to regulate it through boarded pharmacists only. Chief Powers thanked his guests and made a note to send each a letter of deep gratitude.

The warm mist felt good as he rowed the new canoe across the lake. Another birthday for his daughter come and gone...ever reminded of the important things in life. He lapsed to thought of the recommendations he would take to the sub-committee later in the week, and he knew he was doing a good thing for his community and for those he loved. Under his breath he whispered the three words that had served as his mantra throughout his career: “trust, integrity, balance.”

STRATEGIC PLAN

As indicated earlier in the article, the author believes that one of the very best ways for a police executive to address critical issues in the community and to provide responsible customer service is to engrain a proactive posture with the agency's leaders. This paradigm in management is one that encourages anticipation of issues prior to them becoming abstract. Having viewed some of the future issues as they relate to the impact of medicinal marijuana on the San Jose Police Department in the scenario—based on forecasted trends and events—the responsible police executive needs to ensure a strategic plan is developed. Again, the perspective being that some, if not many, of the trends and events are likely to occur. Preparing for them is paramount.

Today, police chiefs must consider short- and long-range goals, effectively utilize resources to meet those goals, and evaluate programs to determine the extent to which goals are being achieved.²⁴ The potential gain or loss that the department may experience as a result of management planning is affected by specific criteria that the manager must weigh prior to selecting the most appropriate management planning approach.²⁵ The San Jose Police Department has been very successful with incorporating a working philosophy of Community Policing. The development of a strategy plan would naturally include a common understanding that a systems approach or 360 degree full-wrap practice be used in the process. In other words, both internal and external forces—critical mass actors—would be involved in the process or at least influence the final strategic plan. These actors may consist of stakeholders and snaildarters (although snaildarters are typically unidentified, but may be predicted). A stakeholder is defined as someone who is

interested; an influential individual or group who is either affected by or perceives that they are affected by, the actions of the organization, and care strongly about the impact of the actions.²⁶ A snaildarter is an unidentified saboteur to the plan, in the form of an individual or group, which are often not considered during the initial stakeholder analysis. They often make their move relatively late in the plan, in an effort to disrupt the process.²⁷

To help prepare the Department for the issues that are likely to arise over the next five years as they relate to the legalization of medicinal marijuana, three primary strategies have been identified:

1. Explore and document the Department's philosophy and policies.
2. Establish a Department entity responsible for fulfilling these policies.
3. Create a forum whereby the community remains fully aware of the impacts—pro and con—of Proposition 215.

EXPLORE AND DOCUMENT THE DEPARTMENT'S PHILOSOPHY AND POLICIES

This is a concerted effort by the organization's policy makers—top level management—to exercise the very essence of community policing. The intent of this strategy is to openly communicate with as many facets of the community as is practical to seek input on their perspectives, issues, concerns, and ideas about the implementation of Proposition 215. The solicited information is then blended with statutory law, study of what has occurred in other jurisdictions (creative swiping), and the Department's mission and values to reach an umbrella philosophy. This issue philosophy in turn will drive or influence detailed policies.

Advantages

This strategy creates the very foundation from which the Department will operate. It establishes the principles and the value structure from which all other related Departmental activity will stem. Contemplated activity such as enforcement procedures, administrative processes, and the like will be congruent with the philosophies and policies culled from this process. The community trust—our organizational investment—will be enhanced, resulting in a credible and workable approach to the law. The chief executive can take solace in knowing that this foundation is well staffed and contemporary, yet will have a built-in renewal component.

Disadvantages

The information received from the full-wrap approach (360 degree input) may be counter to the true ideas and feelings of the Department policy makers. There can be great risk in seeking many ideas, and then being bound to them for political survival when, in fact, the organization's interests lay elsewhere.

Perception of Stakeholders

First and foremost, the process must be credible and it must involve a fair and balanced representation of the community. This involves, but is not limited to, the educational, medical, business, volunteer, youth, and governmental communities. The Department must be willing to truly accept the synergistic input of rational community ideas and thoughts, not merely provide lip service and then disregard their input. To do either of these could cause the stakeholders to rebel or lose faith in their police department. Trust is eroded, and future opportunities to develop it are jeopardized.

Stakeholders will want philosophies and policies to be flexible and open to revision as the evolutionary process of new law occurs. They will want to be part of that process.

ESTABLISH A DEPARTMENT ENTITY RESPONSIBLE FOR FULFILLING THE POLICIES

This would be a division, unit or detail tasked with the responsibility of addressing the organization's interests in medicinal marijuana laws. The responsibilities could be divided up between different units; for instance, an administrative arm could deal with the permitting and planning process for dispensaries, the Crime Prevention Unit could work with the schools and businesses to educate them about related issues, and the Narcotics Unit could be assigned criminal investigations and audits. The Chief executive would require a venturi whereby the activities and issues of different arms of the organization accurately flow to the top.

Advantages

Assigning responsibility to a specific Department unit(s) allows for real-time analysis of the factors associated with Proposition 215. The community can be assured that the law is implemented and enforced as the voters envisioned. Department executives can exercise accountability and "reach out and touch someone" when dealing with marijuana issues. As the adage goes, "What gets measured gets done."

Disadvantages

The narrower the focus is from the Department toward those who choose to exercise the new law—marijuana dispensaries for instance—the more risk there can be for personal agendas or self-interests to influence the organization and community intent.

Department administrators may do well by avoiding myopic perceptions by their personnel and divide responsibilities over a broad spectrum. The disadvantage of assigning more responsibilities to commanders and supervisors without commensurate resources could result in a handicapped Department response, thereby weakening their policy enforcement efforts rather than bolstering them. In other words, full commitment to all issues is a worthy goal, but in its absence, full commitment to the most important issues is more effective than partial commitment to all of the issues.

Perception of Stakeholders

The community will clearly be looking to the Police Department for leadership and for an ethical approach to the issues. Professional management instituted by the Chief will ultimately be graded in two arenas: how it is perceived, involves and affects the rank and file, and how it involves and ultimately affects the public. The stakeholders may be less concerned in how their interests are fulfilled as they are in perceiving that the Department is responding appropriately.

CREATE A FORUM WHEREBY THE COMMUNITY REMAINS AWARE OF THE IMPACTS-- PRO AND CON--OF PROPOSITION 215.

This particular strategy is created for the sole purpose of ensuring the Department's obligation to keep their "customers" informed of contemporary information regarding the implementation of the law and its effects. The methods used to convey this information should be unbiased and as apolitical as is reasonable.

Advantages

Ensuring that the public entity—including stakeholders and critical mass actors—are kept informed of the issues and consequences (good and bad) of Proposition 215 is one primary strategy that will go toward a healthy and credible environment. It is an opportunity for the Department to “put its money where its mouth is” by engaging in open and honest dialogue with the public. It is one avenue available to a chief to protect the interests of the Department and sidestep filtering and agendas that may occur when information is communicated in the press or other forums. Providing information to the public also builds a perception of forthrightness, it holds the Department accountable, and it fosters a system of checks and balances.

Disadvantages

As indicated earlier, healthy dialogue and an informed “customer base” can result in the Department’s administration receiving information, suggestions, and directions from community-based organizations that may be incongruent to the Department’s mission and philosophy. The Department may open itself up to scrutiny but should be able to survive it if the process employed is integrous.

Perceptions of Stakeholders

This strategy only builds on the current environment of general trust by the community of the San Jose Police Department. The efforts to aggressively and sincerely communicate with the community is parallel to the management philosophy now used. It would not be considered “new,” and thus circumspect. If done appropriately and

skillfully, it will be perceived as mortar in the brick wall of trust between the Police Department and the public it serves.

TRANSITION MANAGEMENT PLAN

In order for the three identified strategies to be successfully implemented, the Department's executives will need to focus on the transition; the critical synapse between developing strategy and bringing it to fruition. Effective plans have failed because planners believed their jobs ended when the decision was made.²⁸

Regarding all three strategies, it is of critical importance that buy-in occurs from both internal and external stakeholders, as well as critical mass actors. Acceptance of a plan is extremely valuable to its success, and it is best assured by involving users or people affected by the plan.²⁹ The systems approach of involving many factions into the strategy development may be time consuming and arduous, but for no other reason than that stated above, multi-disciplinary involvement is very important.

For the implementation of Strategy One to be successful, the transition following the strategy identification involves capitalizing on processes that are already in place. The San Jose Police Department enjoys an excellent relationship with a large variety of community-based organizations, business representatives, education administrators and policy makers, government policy makers, and so on. Their current involvement in the police department occurs in a number of ways: community meetings, Chief's advisory committees, school liaison programs, neighborhood watch organizations, Citizen's Police Academy, and City Council access, just to name a few. In addition to these avenues, the

Department would do well to commission certified phone surveys on a semi-annual basis, making inquiry into the feelings and attitudes of the public. The media would need to be monitored for letters to and from the editor, and the Department's Internet web page could solicit community input. Internally, laws, policies and procedures would require review, and other organizations and the Attorney General's office would have to come into the mix. This would best be handled by the Research and Development unit. Line and civilian personnel should be queried and provided an opportunity to voice their thoughts as they relate to the Department philosophy and policies on the issue of medicinal marijuana. The collective thoughts of many far exceed, in many ways, those of a few.

Prior to initiating the solicitation of information, the Department has an obligation to seek interested members of the Department who choose to be involved in the process. They need to be allowed the opportunity to suggest what methods are used to seek input from stakeholders, how it should be done, and how the final results will be determined. They should be provided training on how to facilitate large groups or assess information accurately. There should be consideration in using professional group facilitators and trainers. A common sense of mission must be established before the efforts to engage in Strategy One are launched.

Upon receipt of all input, it needs to be assessed and reviewed by policy makers. The Chief has the ultimate authority to then determine what laws, ordinances and regulations will be drafted or changed. This is done in concert with the City Attorney's office. No doubt the Mayor and Council will desire input as well. Once policies are

staffed and agreed upon, it is imperative that they are communicated clearly to members of the organization and to the community. Incremental implementation is important, and small “wins” should be advertised. A system permitting reflection and renewal should be set in place to assure the Department’s philosophy and policies are appropriate and do not become antiquated, however, this should not assume priority over the importance of remaining true to community values and principles. Follow up is critical.

Regarding Strategy Two, the most significant factor the Chief Executive will have to address is the increase in job responsibility coupled with the lack of increase in resources. “Unfunded legislation” has become the norm, and this new law presents yet another challenge to law enforcement if it is to be addressed correctly. The transition to put this strategy in place will be closely scrutinized by Department members. Will the Chief skillfully employ tactics to gain more resources to fulfill this strategy, or will the policies become a “collateral” assignment that receives perhaps 25% of the attention it deserves? Particularly in the early phases of Proposition 215, a firm and attentive approach may be necessary, in which case the resources will need to be carved from somewhere or at the expense of another Department priority. This will be determined during the development of Strategy One. Of course, the Chief has the prerogative of assigning the unit or division he or she deems appropriate for the mission.

The transition for Strategy Three—the forum for keeping the public abreast of the impact of the new law—can be molded in any number of ways. Again, Police and community representatives must become part, or rather the core, of the transition process. The overall objective of this strategy must be agreed upon and made clear, and

measurements for flexibility and success must be determined. Whatever style or methodology is used to maintain open dialogue with the community and keep them informed, the key for success is involvement by stakeholders and commitment to training. So often a strategy may find itself doomed at the front end because the right investments (training) were not made. Tasking Police personnel with a responsibility ethically requires they be provided with the attendant resources to get the job done.

Some avenues that may be used to see the third strategy to success are very similar to the first strategy; open community meetings, mailings, Internet web page, media access, press conferences, etc. No doubt a college professor who teaches marketing would have some excellent suggestions on how to best disseminate information to the masses. The message that is agreed upon to be communicated to the public must be made consistently clear to the people who are broadcasting it. It must become the organization's mantra. For example, if in the most recent quarter the Police Department experienced an increase in violent juvenile crime or accidents directly related to marijuana abuse, and the National Institute of Justice published information that documented a significant study showing marijuana as a gateway drug, then an integrous approach would be for the Department to share this information. The information received to the Department as a result of Strategy One can only be judicious if the stakeholders are given balanced information to base their input on as a result of Strategy Three.

IMPLICATIONS FOR LAW ENFORCEMENT LEADERSHIP

The implications for leadership in the San Jose Police Department are very similar to the reasons this issue was so important to study. First, the legalization of medicinal marijuana in the manner it was done in California, and with the proposition authored in its ambiguous context, is cause for a huge (and uncomfortable) paradigm shift. The law will most assuredly be “tenderized” over the coming years. The community and the Department membership will be looking to leaders in the Police organization to see not only what the response will be, but also the method used to determine how the response was prepared. Were they included? Was the community included? Is it rational and appropriate? Are there hidden agendas? Were they provided the resources necessary to get the job done? How much did politics weigh into the equation when philosophy and policy were determined? Has the process and the end result been ethical and arrived at with integrity—congruent with the organization’s and the community’s values and principles—or did policy makers simply “shoot from the hip?” Did we do what was appropriate and necessary to keep the public informed, ultimately assuring their wellness and safety? These are all issues and questions that, based on the identified trends and events, will be asked of Department executives over the next five years.

A second implication is one of trust. The community in San Jose trusts their Police Department. This has been earned over the long-haul, with great effort and sacrifice. As is well known, keeping trust is much more difficult than losing it. A perception by the stakeholders that their trust has been betrayed would have devastating consequences. The challenge to leadership is to take the opportunity with this new law and develop further

trust, particularly with facets of the community heretofore not as participative with their police as many would desire.

Finally, a crucial component is recognizing that law enforcement leadership has the obligation to protect their community and to ensure their safety. This law and the possible effects it may have on the community over the next five years poses a threat to that wellness and safety, while paradoxically providing some benefits. The political arena cannot be ignored, but looking back a few short years from now, the Department should enjoy a conscience devoid of doubt, knowing all reasonable efforts were made to manage the process, lead Department members, and protect their community.

RECOMMENDATIONS

The common themes throughout this article have been the need to anticipate the effects the new law will have on the community and thus the Department, study trends and events and instill a philosophy of proactivity, involve the Department membership and community members in the strategy and transition process, always have a plan, follow up and be flexible, and lead from a foundation of principles, values and ethics. The following are leadership recommendations that are the fiber for successful strategy transition and implementation:

1. Lead by example and self discipline.
2. Inspire by example and participation. "Face time" with all stakeholders and critical mass actors is important.
3. Reward the wins and reward the failed risks.

4. Inspire through energy, participation, trust, a sense of importance, and reward.
5. Encourage and demand prudent risk taking.
6. Be a facilitator and obstacle remover. Allow it to happen for others.
7. Invest in our customers—the line personnel and the community members.
8. Ensure the message from all command is clear, consistent, and congruent with actions.
9. Enjoy the opportunity for the Department to work with and invest in the relationship with the community.
10. When things go awry, people will remember where the Department stood at the outset. Research, balance, involvement, and “doing the right thing for the community” will serve Department leaders and its membership well.
11. Enjoy and capitalize on the opportunity to develop future organizational leaders as they study Department executive’s actions and learn by their example.
12. Flexibility, renewal, appropriately changing course, and an environment that does not “shoot the messenger” and understands the positives of appropriate benevolence, are foundations of success.

CONCLUSION

The voters of California passed Proposition 215; it is now law. Court rulings, new legislation, social experiences, university studies, community attitudes, and so on will all affect the evolution of the law. The critical decision by law enforcement is how we will respond to the new law before being forced to react, rather than influence, its

consequences. The right decision will be founded in the Department's ability to anticipate the issues, manage the change, and make their efforts a priority. The end result can be dire or beneficial to our City. The Police Department has, over the coming months and years, an opportunity to influence the implementation of Proposition 215.

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