

WHAT IMPACT WILL POLICE MISCONDUCT HAVE ON A LARGE COUNTY
SHERIFF'S DEPARTMENT BY THE YEAR 2005?

Project

California Commission on
Peace Officer Standards and Training

By:

Lieutenant Denver L. Pittman
Riverside County Sheriff's Department
Command College Class XXIX

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This Command College Project is a Futures study of a particular emerging issue important in law enforcement. Its purpose is not to forecast 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 is unknown where anything can and may happen. In this project, several possible alternatives have been formulated so the planner can respond to a range of possible future environments.

Managing the future requires one to exert control thus affecting the direction the future takes; bending and ever so slightly influencing the directing of the future thus creating a manageable future. A future study merely points to one of many ways in which the future may occur.

The vision of the future 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)

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TABLE OF CONTENTS

List of Tables

Chapter I	Issue Development	1
	Overview of Police Misconduct	1
	Police Oversight Functions	8
	Race as a Factor	16
Chapter II	Futures Study	20
	Nominal Group Technique	20
	Scenarios	38
Chapter III	Strategic Plan	45
Chapter IV	Transitional Management	54
	Developing the Transition Plan	54
	Implementing Change	55
Chapter V	Recommendations and Conclusions	61
	Multi-Faceted Training	61
	Qualified Instructors	62
	Understanding all people are Unique	64
	Independent Administrative Investigations	65
	Civil Liability	67
	Conclusions	68
	ENDNOTES	70
	BIBLIOGRAPHY	73

Table	Page
2.1 Statement of Strategic Purpose	21
2.2 Trend Analysis	22
2.3 Event Analysis	28
2.4 Cross Impact Analysis	35
3.1 Stakeholders	52

CHAPTER I

ISSUE DEVELOPMENT

Overview of Police Misconduct

Police misconduct and abuse have increased over the past several years.¹ The sheer number of reports and complaints has risen across the country, and reports of major abuses on the evening news seem to be more blatant and violent. These televised incidents receive mass media attention because someone has been beaten or killed by an officer.

Most people recognize that the majority of police officers do not steal, use excessive force, and that police misconduct is not running rampant in most of their communities. However, any police misconduct that occurs is too much. Law enforcement executives must give consideration to our litigious society. Any failure to properly investigate and take action on allegations of police misconduct places the organization and individual executives in a potentially serious civil liability situation. Today's law enforcement executive must always consider the impact of police misconduct on the future. Past police misconduct cannot be changed; however, future police misconduct can be mitigated.

Throughout the history of American law enforcement, there has been a deep apprehension by the public about the necessary but tremendous

authority that is bestowed on police officers. In a democratic society such as ours where freedom is treasured more than life itself, police accountability is of utmost concern. No police or sheriff's department can successfully serve the entire community if any of its residents, no matter the number, fear or do not trust the police with legitimate cause.

The mission of any police agency not only depends on the reality of crime but also on the perception of crime by the public. Every agency's image greatly depends on how it handles crime and responds to calls for service. More importantly, though, is the ethical and moral credibility of personnel employed by the agency.

In the past, police misconduct usually involved a mutually beneficial arrangement between criminal and police, such as taking bribes for looking the other way.ⁱⁱ In contrast to past forms of misconduct, modern studies on police misconduct indicate that some police are engaging in serious misconduct. This may consist of conducting unconstitutional searches and seizures, stealing money or drugs, selling drugs or sex, protecting drug dealers, providing false testimony and planting evidence, and shooting unarmed persons. Corruption, the unjustified use of force, abuse of authority, disrespect, racial bias and violations of civil rights are common failings.ⁱⁱⁱ Each of these factors can tarnish an agency's reputation. The real challenge for law enforcement executives is to formulate and implement a plan to mitigate the negative image and restore credibility to the agency.

Police brutality is one of the most serious and divisive allegations, which can shake a community at its very core. Extreme cases of police misconduct can cause heated public debate over the causes of the conduct. Reports of police misconduct and abuse have increased dramatically over the past years. The number has risen across the nation and the severity of the alleged abuses has become bolder.^{iv} The real difficulty arises when police behavior first appears to be abusive but may be appropriate under the circumstances. Most people recognize that the vast majority of police officers do not resort to more force than necessary when making an arrest. Excessive force complaints are not soaring in all communities but the allegations of police misconduct seem to increase in frequency from specific segments of the population. Most of these complaints have arisen after a police officer has beaten or killed young Latinos and African Americans under less than clear circumstances.^v

According to a recent report on police misconduct published by the Human Rights Watch, an international public watchdog group, Department of Justice prosecutors filed complaints in 1998 on less than one percent of all allegations of excessive force investigated by the Federal Bureau of Investigation. The Human Rights Watch found almost no difference in the bipartisan investigations of police misconduct. This included misconduct cases investigated by the Department of Justice during the Democratic or Republican parties' time in office.^{vi}

Many minority organizations have accused the Federal Bureau of Investigation and the Department of Justice of a see no evil attitude when investigating police violence complaints.^{vii} In reality, the actual number of excessive force complaints has risen.^{viii} According to statistics from the Federal Bureau of Investigation, nearly 12,000 complaints were filed against the police in 1996. This total almost matched the number of complaints accumulated from 1984 to 1990. There is now an enhanced computer system in place that assists agencies and members of the Department of Justice in tracking and projecting trends of complaints about law enforcement violence. The Violent Crime and Control Act of 1994 authorized the Department of Justice to begin the collection of data on the numbers and types of alleged police misconduct investigations in the United States.^{ix}

The Department of Justice has several strong civil rights statutes and a vast amount of resources to investigate abuses of police discretion. The press focuses public attention on abuses in police conduct. Large-scale demonstrations draw attention to these issues. It seems as if the entire world has seen the video of Rodney King being beaten by Los Angeles police officers. After the Rodney King verdict in Simi Valley was announced, protests became violent, and Los Angeles became the site of civil unrest.^x

In St. Petersburg, Florida, a white police officer shot and killed a black motorist on October 24, 1996. The shooting sparked rioting in a portion of the city with twenty arrested and damage estimated at five million dollars.^{xi}

In Riverside, California, the relatives of a 17-year old female who was shot and killed requested the Federal Bureau of Investigation investigate the City of Riverside police department. The relatives have claimed that the city's police officers have established a pattern of brutality toward minorities. The Department of Justice has agreed to look into the incident after the Riverside County District Attorney's Office failed to determine criminal culpability on the part of the officers. District Attorney Grover Trask stated, "... the officers used bad judgment and tactics but not to the level of criminal negligence."^{xii}

In Los Angeles recently, the news headlines heralded a probe into police corruption. A police officer pled guilty to stealing eight pounds of cocaine from an evidence locker. As part of a plea bargain, the officer told investigators that he and a former partner shot an immigrant and planted a weapon on the person. The immigrant was later convicted of false testimony and sent to prison. As the saga continues to unfold, it seems that numerous members of a specialized unit have been involved in unlawful and unconstitutional acts. Hundreds of criminal cases could be lost and hundreds of million dollars could be paid to attorneys and victims at the taxpayers' expense.^{xiii} Unfortunately, this series of events is not new to law enforcement.

As with many major cities, the New York police department has had numerous allegations of abuse and misconduct. The Mollen Commission in

the city of New York identified three motivational factors for police corruption in the City of New York: profit, power, and perceived street law enforcement. When confronted, the corrupt officers admitted wanting a profit. However, several other reasons were offered. Some carried out raids because they wanted to show who was in control of the streets, wanted the feel of power, or believed that vigilante justice was a way to punish those that might otherwise go unpunished.^{xiv} In each of these cases, the officers involved violated the rights of citizens.

In practice, prosecutors say it is more difficult to prosecute police officers for misconduct because criminals are not perceived as victims and there is a lack of credible witnesses. Criminal prosecutions of police officers on charges such as murder and excessive force are extremely difficult to file. Jury members are not easily convinced that an officer acted with criminal intent rather than making a mistake. Convictions for serious crimes are even more rare and difficult to obtain. Prosecutors complain that the requirement that they prove specific intent to kill or injure the victim is difficult at best. Prosecutors stated that this obstruction is difficult to eliminate. An unstated impediment might also be the win/lose ratio. Attorneys are not willing to take on a case that is not airtight because a loss might not look good on the attorney's record.^{xv}

Many state and local prosecuting attorneys lack resources such as money, investigators and support staff for a specialized prosecution unit to

exclusively prosecute police misconduct cases. In most jurisdictions, it is difficult to prosecute a police officer for a major crime because most prosecutors have very little or no experience at prosecuting a police officer. Attorneys experienced in this arena have learned by trial and error in the courtroom.^{xvi}

Police misconduct is not unique to any one state or region of the United States. This recurring topic is in the nationwide media in all geographic areas. Police officers who engage in shootings which demonstrate a lack of sound judgment, beatings, unnecessary force and criminal acts continue to attract major news headlines throughout the United States. Police misconduct must be taken seriously by everyone in law enforcement from the executive to line level personnel. Elected officials from state, county and local government should work to eliminate misconduct within all law enforcement organizations. The public will ultimately demand and accept no less than absolute honesty from law enforcement personnel.

Police in any society are accountable to their departments. However, in a society such as ours, police officers must be accountable to many others: to the lawmakers, citizens and especially to the laws they are sworn to enforce. In what other position can the power of life and death be given to a person by society as a whole? But what happens when a police officer, to which society has given this ultimate power, decides for some reason to violate the very laws that the police officer has sworn to enforce?

In 1994, the Violent Crime Control and Law Enforcement Act provided an additional tool to fight police misconduct.^{xvii} This act allows for civil action against local governmental authorities that have unlawful policies or have established a practice of conduct that attempts to deprive any individual of civil rights. These civil cases have resulted in reform packages that minimize the abuse that has been condoned by police administrators and city governments.^{xviii}

Police Oversight Functions

Internal Affairs

There are frequent criticisms regarding the thoroughness and motive of many police internal affairs units. These criticisms have given rise to numerous suggestions such as citizen reviews and federal intervention. There is no question that control is an absolute necessity to ensure a quality investigation; however, external overviews must not bring any hidden agendas to the table. One of the best solutions is an aggressive well staffed internal affairs unit.

Police officers, like every one else, make mistakes when they are placed under extreme pressure. This, coupled with the multitude of variables and anomalies that an officer may face during each situation encountered, adds to the stress during the decision making process. Even the best recruiting, training and field supervision cannot ensure flawless decisions by

each officer on the street. Yet, because officers are human, each officer can make mistakes or allow emotion to cloud one's decision making process. Society expects and demands that officers remain impartial when making decisions.

Many abuses are preventable if proper care is given to internal investigations. Officers with substantial records of misconduct, vague and ambiguous policies, substandard academy training and instructors, and inadequate screening all create opportunities for police misconduct. Law enforcement executives, managers and supervisors must also demonstrate a willingness to take corrective action when policies and laws are violated. Law enforcement executives who are willing to believe all cases of police misconduct are flukes do not consider a major point of contention. Many problem officers are able to avoid discipline because of seriously flawed internal investigations and tracking systems. Law enforcement executives have a moral, ethical and legal obligation to ensure that officers are conducting themselves in a reasonable manner. Once an agency has an aggressive internal affairs unit and a highly selective personnel unit, including background investigators, the volume of investigations should begin to diminish.

Citizen Oversight

The concept of a police commission or citizen review board is not a new idea for many police departments. Although most citizen review boards imply that board members investigate police complaints by receiving and investigating individual citizen complaints, this is seldom the case. Under normal circumstances, a sheriff or police department's area commander, or specific internal affairs unit within a department, conduct the function of investigating citizen complaints. Police commissions or citizen review boards usually review serious crimes, such as shootings, after presentations by a police department's internal affairs unit.

A secondary method of providing information would begin with a revamping of all methods for taking complaints. An audit and control section would have the responsibility to audit and oversee the disciplinary process, participate in the adjudication process and punishment in the most serious cases and then report to a citizen review board. The audit and control section would not conduct investigations but instead would be an internal audit section and have control over the internal affairs unit and other minor investigations into complaints by citizens. The auditor would then be responsible for issuing a bi-yearly report.^{xix}

Federal Civil Rights Investigations

When local prosecutors decline to investigate or prosecute police excessive force or wrongful death cases, the federal government may decide to investigate and prosecute if an individual's civil rights have been violated.^{xx} Specifically, the Criminal Section of the Civil Rights Division of the United States Justice Department is responsible for prosecuting these cases by using civil rights statutes of the Reconstruction era of 1871. The Federal Criminal Civil Rights Statute, allows the prosecution of officers accused of misconduct involving excessive force or wrongful death. The statute states:

Whoever, under color of any law, statute, ordinance, regulation, or custom willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States...shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosive or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.^{xxi}

There are many obstacles to prosecuting police officers under the federal civil rights statutes. Due to limited resources, federal authorities do not routinely collect and review all cases that may fall within the definition for prosecution of federal civil rights statutes. In many cases, the decision to

prosecute is fueled by media attention or other variables. When prosecutors learn of cases after a preliminary investigation by the Federal Bureau of Investigation or the media, supervising attorneys choose to prosecute less than one percent.^{xxii}

In part, the difficulty in prosecuting police officers is that the witnesses lack credibility. The public has a predisposition of believing police officers. An added factor is that the prosecutor must prove that the officer had the specific intent to deprive the individual of their civil rights. Civil Rights groups believe that it should be sufficient that an officer intentionally and unjustifiably injured or killed a victim without the burden of specific intent.^{xxiii}

Department of Justice prosecutors rely on the Federal Bureau of Investigation to conduct inquiries into allegations of criminal civil rights violations. The typical investigation into police abuse may be limited to information provided by the law enforcement agency. Justice Department rules require that a preliminary investigation be conducted by the Federal Bureau of Investigation within twenty-one days of the allegation. This virtually eliminates a detailed and in-depth investigation by the investigator.^{xxiv}

Except in rare instances, federal prosecutors do not pursue cases in which local prosecutors attempt but fail to indict or convict. In deciding whether to proceed with a case in which local prosecutors have failed to obtain a conviction, federal prosecutors consider whether the original trial was affected by prosecutorial incompetence, corruption, or jury tampering.

Federal prosecutors determine whether crucial evidence not allowed in state proceedings can be introduced or whether there is compelling federal interest to proceed.^{xxv}

The Violent Crime Control and Law Enforcement Act of 1994 included a new statute under which the Justice Department may sue for equitable and declaratory relief. The statute states:

It shall be unlawful for any governmental authority, or agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern-or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

Whenever the Attorney General has reasonable cause to believe that a violation of the above has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern-or-practice.^{xxvi}

This statute gives federal authorities the power to bring civil action against any police department engaging in a pattern or practices of misconduct to enjoin, or direct the police department to cease the undesired practices.

In April 1997, the Special Litigation Unit of the Department of Justice achieved the first ever consent decree from this provision. The Pittsburgh, Pennsylvania Police Department consented to the decree, however, denied any misconduct. As part of the decree, the police department agreed to

1. Establish a comprehensive early warning system;

2. Develop and implement a use of force policy that is in compliance with applicable law and current professional standards;
3. Requires officers to file appropriate use of force reports;
4. Conduct regular audits and reviews of potential racial bias, including the use of racial epithets by officers;
5. Improve investigative practices whenever an officer is allegedly engaged in misconduct;
6. Apply appropriate discipline following sustained complaints;
7. Appoint an independent auditor to ensure compliance with the consent decree.^{xxvii}

This type of investigation and decree is aimed at forcing compliance to acceptable standards.

Political Considerations

Efforts to investigate and increase accountability by law enforcement agencies can be seriously hampered by actions of some police unions. Additionally, many law enforcement unions have active political organizations that are sympathetic to their causes. These groups aggressively deny all incidents of police misconduct and encourage officers not to comply with requests by internal affairs investigators or administrators. Police officers will immediately ask for a union field representative or an association lawyer when they are accused of

misconduct. The State of California has the Police Officer Bill of Rights that can contribute to more legal maneuvering during an investigation.^{xxviii}

Public officials and District Attorneys are elected officials and as such need media coverage. These candidates are often actively seeking endorsements and political support from police unions that wield political clout. Realistically speaking, why would any candidate argue against or prosecute a law enforcement officer when crime continues to decrease and the general population does indeed feel safer?

Aggressive policing is a model that has been developed and tried in several large cities in the United States and has been successful to some extent in test areas. The aggressive policing program was originally developed in New York City as Quality of Life Policing and copied in many other cities.^{xxix} Aggressive policing is a necessity, but over aggressive policing is a problem that generates numerous citizen complaints.^{xxx} As stated in a New York newspaper, "Crime is down. If the police have to kick a little butt to make the city safer, so be it."^{xxxi} Aggressive policing is a legitimate method of controlling crime but abusive policing cannot be ethically, morally or legally justified as a method of reducing crime.

The relationship between the community and the police definitely suffers when police become overly aggressive in their policing methods. This seems to be especially true of minority communities when singled out for aggressive enforcement. While the neighborhood may first welcome the

enhanced enforcement, this may soon turn to disrespect or hatred of the officers.

Race as a Factor

Embedded Life Experience

Everyone learns from past experiences and embedded memories. Past life experiences include what one hears, sees and what one is taught. Many minorities do not trust the American Justice System. A recent Boston study cites a sample of Hispanics that think the police do a good job.^{xxxii} But a similar Gallup poll of Los Angeles in 1995 indicates that blacks think the criminal justice system is not fair. This study indicates that a high majority of blacks believe that racism exists in most police departments today.^{xxxiii} A report in Los Angeles indicated that a majority of whites agree with that study and also that police use racial profiling targeted towards blacks.^{xxxiv}

Race continues to play a central role in police brutality allegations in the United States. In cities where data by race is available, minorities have filed allegations of police misconduct in greater numbers than white residents of the same community. When examining the racial profile of a city to determine a correlation between the number of complaints filed and the total population, the complaints filed by minorities far exceeded their numeric proportion.^{xxxv} Minorities perceive that the police have subjected them to apparent discrimination including physical and verbal abuse. Many minorities have accused the officers of using derogatory racial epithets during everyday

encounters. Minorities have also accused officers of non-violent activities. For instance, racial profiling in which drivers were detained due to their race, driving a particular type of vehicle or being in the wrong area.^{xxxvi}

Claims of racial bias helped spark the Los Angeles' deadly riots of April 1992. The riots were in response to the acquittals of police charged in the Rodney King beating case. Fifty-four people were killed, 2,383 injured and 13,212 people were arrested. Property damage was estimated at more than \$700 million for the county.^{xxxvii}

The Christopher Commission

In 1991, The Christopher Commission's Los Angeles report and the 1992 St. Clair Commission's report which examined Boston's police department show that race still plays a central role in the use of excessive force complaints. The St. Clair Commission report found that in the period studied, fifty percent of complaints in the sample group were African-American, while twenty-six percent of Boston's population was African-American.^{xxxviii}

The Christopher Commission in Los Angeles also found that "the problem of excessive force is aggravated by racism and bias..."^{xxxix} The report cited information that found twenty-five percent of 650 officers responding agreed, "racial bias on the part of officers toward minority citizens currently exists and contributes to a negative interaction between police and the

community”.^{xi} Another twenty-five percent agreed that an officer’s prejudice towards a subject might lead to the use of excessive force during an arrest.^{xii} The report concluded that the Los Angeles Police Department had practices and procedures that condoned discrimination and other officer misconduct directed toward members of a minority group. Witnesses repeatedly reported that officers verbally harassed minorities, detained African-Americans and Latino men who fit certain generalized descriptions of suspects, employed unnecessarily invasive or humiliating tactics in minority neighborhoods, and used excessive force.^{xiii}

Widely publicized cases highlight the way perceived instances of abuse can ignite a racially charged atmosphere. In St. Petersburg, Florida, a white police officer shot and killed an eighteen-year old black motorist on October 24, 1996. The officer claimed that the youth’s vehicle lunged toward him. The shooting sparked rioting in a portion of the city, with twenty persons being arrested and eleven injured; dozens of buildings were damaged with the losses estimated at five million dollars. Three weeks later, rioting erupted again when the grand jury failed to indict the white officer. Several people were injured; one officer was shot in the leg. Over one hundred fires were set causing over one million dollars in damages.^{xiiii} The city indicated that black militants caused the second riot. However, an investigation by the United States Commission of Civil Rights concluded that a clique of officers within the Police Department with a pattern of

misconduct were the primary cause of problems between officers and the black community.^{xliv}

In the interest of an officer's career and the department's overall image, a manager may need to reassign an officer if it is determined that the officer has a predisposition toward violent tactics during encounters. To ignore a growing string of use of force incidents by a small number of officers opens up a manager to questions about concern for the officers' actions.

Allegations of police misconduct in the past cannot be changed; however, it is the responsibility of all law enforcement executives to examine and minimize the impacts of police misconduct in the future. In order to do this, the issue of police misconduct will be explored using the Nominal Group Technique.

CHAPTER II

FUTURES STUDY

Nominal Group Technique

In order to examine the impacts of police misconduct in the future, a Nominal Group Technique (NGT) was utilized. The panel consisted of six members of the community. The group had varied backgrounds from government, clerical and education. The panel contributed both conservative and liberal points of view. This intentional mix was set to avoid influence by members of the law enforcement profession and to reflect attitudes of the community in general. The panel consisted of a councilman, personnel director, risk manager, assistant city manager, teacher and an administrative assistant. None of the members worked for the same agency and several did not know each other prior to this meeting. The panel represented a population mixture of 52 percent Caucasian and 48 per cent minority. The minority representation consisted of Hispanics, American Indians, Asians and African Americans.

Prior to the meeting, each panel member was given the issue statement and asked to think about the implications of the issue on the community in general. A definition of police misconduct was given as the unlawful or improper conduct of a member of a law enforcement

organization. This statement was given to help establish trends and events that could impact any large county sheriff's department in the United States.

This information is illustrated in the following table.

PURPOSE
The purpose of the Nominal Group Technique meeting is to identify trends and events that could impact the following issue statement:
What impact will police misconduct have on a large county sheriff's office by the year 2005?
Trends: A series of events and prediction of similar continuation.
Events: An unpredictable incident that may have a significant impact on the issue.

Statement of Strategic Purpose

Table 2.1

Trends

At the beginning of the session, each panel member was asked to identify a number of trends that each believed could have an impact on the issue of police misconduct. A trend was defined as a series of specific events and a prediction of a similar continuation. The question was asked in such a way that trends about police misconduct could have a positive or negative impact on a large county sheriff's office.

The panel members freely discussed their thoughts, opinions and conclusions on the subject. Subtle guidance was given to the members but

not in such a way as to interfere with the free flow or direction of information. After members prioritized the trends, a ranking was established by anticipating how it could affect the issue. The ranked trends are illustrated in the following table.

- 5 years today +5 years +10 years

(concern+10)

Trend #1	40	100	160	200+	7
Trend #2	10	100	125	175	5
Trend #3	50	100	175	200+	9
Trend #4	75	100	175	200+	8
Trend #5	90	100	185	200+	10
Trend #6	25	100	125	150	7
Trend #7	60	100	175	200	9
Trend #8	90	100	125	175	8

Trend Analysis

Table 2.2

The above table represents the panel's subjective valuation of the trend with today representing a value of 100 is shown in columns 2 through 5 in five year increments with the given value. Column 2 is five years in the past with column 3 being today's value. Columns 5 and 6 are five and ten years in the future. Column six shows the positive or negative magnitude of the trends impact on the issue.

A further analysis of the trends discussed by the panel is as follows:

Trend #1 Level of independent review

Panel members agreed that police misconduct is a matter of strong public interest. With the current political climate any major incident of police misconduct will draw the public's attention. Civilian and non-police personnel will become more involved in hearings involving police misconduct on a regular basis. There is an overall perception that the presence of non-police personnel can provide the appearance of public accountability and mitigate any sign of impropriety. Panel members indicated that the merit of this trend would continue to expand over the next several years and possibly double over the next ten years due to citizen concern.

Trend #2 Level of disciplinary standards

An increasing number of departments are developing a disciplinary table or matrix. Each disciplinary table or matrix describes the range of penalties for different violations thus removing the broad discretionary power of department executives. This disciplinary matrix insures a reasonable discipline for each incident and mitigates the ability of law enforcement administrators to drop an incident. The matrix also prevents a double standard of discipline. The matrix does not remove any rights that are established by law and the matrix is fair for all parties involved. Although panel members thought the disciplinary matrix was not widely used by police agencies in the past, each thought the concept of a standard disciplinary

matrix would continue to increase in the future. Most members were not deeply concerned over the level of disciplinary standards.

Trend #3 Level of public expectations

Duties and expectations of police officers have expanded past what is considered traditional or normal police duties. Demands for public service have increased, along with increased workloads and limited funds. Agencies must explore alternative methods of providing necessary services to the communities. Law enforcement duties should be narrowed to encompass traditional expectations of police work such as crime and traffic scene investigations. Functions such as crime prevention and other miscellaneous police functions should be limited or civilianized. Panel members indicated that narrowing non-traditional services duties would allow more productive time and simplify policing. Every agency must continue to remove non-critical functions to a lesser level of police response. The reduction of calls will reduce stress on patrol officers and explore the potential for costs savings. This trend rated a high level of concern by several of the panel members. The majority of the panel members thought that this trend would double over the next ten years with a positive impact on police misconduct.

Trend #4 Professional police

The average age and education level of police recruits will continue to increase. Police will become more professional with increased and enhanced testing and background investigations. Background investigations will

become lengthy and detailed for police applicants. With detailed background investigations comes a price of time and money to an agency. Once hired the career of a being a police officer will require many additional hours of classroom and in service training prior to being allowed to work patrol. Agencies will invest enormous amounts of time and funds to recruit and field fully trained police officers. Members agree that solutions to police misconduct lie in the areas of hiring, training, supervision, management and proper leadership. All panel members thought this trend would continue in the future with an increased focus toward an enhanced professional police force.

Trend #5 Police union politics

Police unions have become powerful and shield cases of misconduct. Unions were traditionally used to negotiate for wages. Modern police unions have become politically active. Police unions have been investing time and money in political actions, retaining attorneys and representing association members in administrative hearings. Police unions now vigorously defend members' accused of wrongdoing. As much as anything, everyone understood the importance of a union but most were unsure of exactly what role a union should play in politics. This trend received the highest numerical value in the concern column. Most panel members have reservations when police and politics were mixed. However, all members thought this trend

would double over the next tens years with police unions becoming very active in politics.

Trend #6 Federal Government database

Panel members believed that the federal government did not track police misconduct cases in the past. However, in the future, the federal government would begin to track police misconduct to establish practices to handle police misconduct and civil rights cases. The Justice Department will develop a database to monitor and collect data to assess determining characteristics of police misconduct. The collection of data would allow the federal government to impose civil sanctions on a city or county for a pattern of civil rights violations. Members of the panel believed the ultimate goal should be to support local police in reducing misconduct so police and communities can join forces in fighting the perception of crime or fear. This trend did not increase as rapidly over the next ten years and panel members indicated a lower level of concern involving the federal government tracking cases.

Trend #7 Annual polygraphs

Most panel members thought that members of special police teams seem to be susceptible to misconduct. Several members thought that officers handling large amounts of money or narcotics should be given polygraphs on an annual basis. Most thought officers working narcotic or special assignments have autonomy and little direct supervision. Most

thought that officers working in anti-drug operations had access to large amounts of untraceable money and narcotics. Several thought the practice of annual polygraphs might mitigate the possibility of police misconduct. However, most members did not know the legalities of using polygraphs and speculated on the effect. The Risk Manager and Personnel Director express concern that this would be difficult to accomplish without major changes in the law. Conceptually, panel members thought the use of polygraphs would be beneficial and rapidly used by police agencies if the law allowed the method.

Trend #8 Civil damages for police misconduct

Panel members associated with local governments felt monetary awards for both actual and punitive damages for police misconduct would increase each year. Civil lawsuits against police officers and departments have become a common every day occurrence. Many municipalities have paid civil suits awarding families tens of millions of dollars during pretrial agreements or as a result of jury awards. Serious civil cases are settled without anyone admitting guilt. This business like method leaves the incident unresolved in the minds of the community, police agency or the employee. Several members indicated that their knowledge of police misconduct litigation was extremely limited. However, each member was very concerned that civil litigation would continue to increase in the future. Most members thought that civil awards would nearly double over the next ten years.

Events

Immediately following the group discussion on trends, the panel was asked to identify the events that they considered having an impact on the issue statement. An event was defined as an unpredictable incident that may have a significant impact on the issue. After establishing a list of events, members chose what they considered the most important events that could seriously impact the issue. The events could have either a positive or negative impact and are listed herein.

Events year>0 +5 years +10 years Impact (1-10)
+ or -

Event #1	4	25 %	90 %	10	+
Event #2	3	50 %	80 %	9	-
Event #3	1	40 %	90 %	7	-
Event #4	2	45 %	95 %	9	-
Event #5	1	30 %	85 %	7	-
Event #6	3	50 %	95 %	9	+
Event #7	3	40 %	80 %	7	-
Event #8	4	50 %	85 %	8	+

Event Analysis

Table 2.3

The table is designed with column 2 representing the panel's value determination of the first year possibility of the events occurring exceed

zero. Columns 3 and 4 represent the panel's value determination of the events possibility of occurring within five years and ten years. Column five represents the numerical value of the impact of the events on the issue. Column six indicates whether a positive or negative value is assigned to the number value indicated in column five. The chosen events are illustrated in the following table.

As with the analysis of trends, provide below is an analysis of events:

Event #1 State licensing improves quality

The State of California uses the Commission on Peace Officer Standards and Training to license police officers and track misconduct much the same way the agency tracks and audits training. If licensing is not an option then de-certification procedures should be used to de-certify an officer for serious misconduct. This would eliminate the officer from working for any agency in the state. All members realized that this event should occur, however, most understood the complexity of establishing such a program. Most panel members indicated that the likelihood of this event occurring during the next five years is small. The reverse was true for the next ten years. Each panel member thought that a system developed by the Commission on Peace Officer Standards and Training or another designated state agency could be fully functional. All members believed that this event would have a high positive impact on tracking and correcting serious cases of police misconduct by having one central collecting agency.

Event #2 Civil Disobedience

Major riot erupts due to police misconduct and media spin placed on the event. An act of police misconduct at some point will be so outrageous that a major riot by a minority group will cause wide spread damage. Media coverage will play a large role in the size of the riot due to the negative spin placed on the coverage. The power of mass media especially television to broadcast news into homes has the ability to sway public opinion over events. This is especially true if this is the only source of information that one relies on. The possibility that media coverage may also incite disturbances in other large cities is a reality. Each member of the panel thought this event could occur at anytime within the next three years. All panel members think the probability that a riot could erupt due to an incident of police misconduct and media coverage over the next five or ten years increases dramatically. Each member believed that this incident of police misconduct would have a major negative effect on police community relations.

Event #3 Media Coverage

Media coverage contributes to public perception of police misconduct. News portrayals of illegal or questionable tactics of enforcing the law, including brutality and corruption can lead the viewer to believe that all police officers and agencies are involved in misconduct. These media perceptions, factual or not, can create an atmosphere of distrust. However,

the media can provide a degree of external monitoring of police agencies if done properly. This monitoring can be factual or with a media desired spin on the facts. The media can also choose not to cover an issue or counter point. The type of coverage also depends on the working relationship between the police agency and the media. Detailed investigative articles and consistent unbiased reporting keeps the public informed. However, selective media coverage and the broadcasting of events based on the publisher's view of the world can cause incorrect responses caused by selective editing. Most panel members believe that this event will occur within the next year and is almost a certainty within ten years. This news media spin is viewed as having a negative impact on the issue of police misconduct. Most panel members are skeptical media coverage.

Event #4 Political Influence of Police Unions

Police unions become major political players in elections of politicians and state laws. Public officials are elected. Most public officials rely on support and public endorsements of powerful police unions to be elected or re-elected. Many politicians will not condemn police action for fear of losing a valuable political endorsement. Police unions have voter appeal and money to support politicians that are supportive of police issues. Once elected, politicians can introduce legislation in support of law enforcement issues. A majority of the panel members felt that police unions would continue to gain political strength within the next five years. Each member thought that

political strength of police unions would nearly double within ten years. This included the thought that smaller unions would join larger organizations to become politically active. Most members felt that increased political activity would have a negative effect on positive police reforms dealing with police misconduct.

Event #5 Union Resistance to Change

Police unions block any attempt at police reform by exercising the political favors for endorsements. Police unions have attorneys on staff and huge bankrolls to defend officers accused of misconduct. Many unions may publicly deny all allegations against police officers even those known to be factual. Most panel members felt that this event would take place in less than a year. Police unions will oppose innovations that they feel are threatening to the union or union members. Panel members predicted a thirty percent probability at five years and an eighty five percent probability at ten years. Each member determined that police unions' resistance to change would have a negative impact on police misconduct reforms.

Event #6 Minority View of Police

Poor people, minorities and persons with alternate lifestyles push for police reforms relating to misconduct. These communities lack confidence in any investigative mechanism that allows the police to investigate the police. Panel members thought that this segment of people would be able to make positive impacts on police misconduct. This segment of the population has

political allies and will not hesitate to take a case of police misconduct to the news media. Each member indicated that a positive impact had a fifty percent probability of occurring in less than five years with the percentage doubling within ten years.

Event #7 Employee Stress

All panel members thought that employee stress had a major negative impact on police misconduct. Increased stress continues due to an ever-decreasing applicant pool and an ever-increasing demand for service. The qualified applicant pool will continue to shrink. This will place additional stress and work load on current employees causing job burn out. Each member indicated that job stress would continue to double at the five and ten year intervals. However, each member thought there were ways for agencies to mitigate the impact.

Event #8 Increased Hiring Standards

Standards for police officers are increased and therefore many applicants with a propensity for misconduct are eliminated before testing. Periodic reviews of police selection efforts should be reviewed and analyzed to determine if revisions are required. Each panel member thought hiring standards should never be lowered in an effort to fill vacant positions. Officers not demonstrating maturity and some higher education should not be hired for police assignments. Members of the panel thought that increased hiring standards had a fifty percent probability of occurring within

five years. There was a consensus that increased hiring standards would have a high positive impact on police misconduct.

Cross Impact Analysis

Once the NGT panel had selected a series of important trends and events, the members were asked the following question, "If a stated event occurs, what effect will the event have on the trend? Do you think the resulting impact will have a negative or positive influence on the trend?" Each panel member was asked to remember that trends and events interact on each other either positively or negatively. Members were to assign a numerical value to the above question and determine if the number was a negative or positive value. The members were then polled for the number and an average was determined and placed on the Cross Impact Analysis Table.

Table 2.4 below illustrates the final rating established by group members of the potentially positive and negative impacts.

	T-1	T-2	T-3	T-4	T-5	T-6	T-7	T-8
E-1	+8	+7	+9	+8	-5	+7	+9	-3
E-2	+7	+6	+8	+7	-8	+4	+2	+2
E-3	+8	+7	+6	+6	-2	+5	-4	+3
E-4	-6	-4	-4	-5	-9	-4	-2	-2
E-5	-9	-8	-4	-8	-9	-5	-8	-1
E-6	+8	+6	+8	+5	-6	+6	+1	+7
E-7	+2	+1	+7	+7	-7	+2	+2	+7
E-8	-4	+6	+6	+9	-6	+8	+8	+6

Cross Impact Analysis Table 2.4

In the above chart column one depicts the events 1 through 8 and then assigned a positive or negative value between 0 and 10. As to the impact, an event may cause a trend if it occurs repeatedly.

The final analysis of the cross impact of events and trends shown in table 2.4, identifies the positive and negative impacts of an event occurring. In viewing table 2.4, one sees that events 1, 2, 3, 6, 7 and 8 are viewed as being able to positively impact trends 1, 2, 3, 6, 7 and 8.

Professional licensing and the benefits associated with the status were not in question. Education, citizen overview and applicant screening were also viewed as positives for the law enforcement profession.

Members agreed about event number one state licensing. Each thought that some type of de-certification procedure such as those used by the American Bar or Medical Associations should be established. Members decided that a de-certification procedure would have a positive effect on police misconduct. This would also empower a state to de-certify an officer for serious violations.

Members believed that a widely publicized case of police misconduct would ignite a racially charged atmosphere into a riot somewhere in the state. This event will cause media, public and governmental attention to instrument change. Members concur that the press does closely cover incidents involving police misconduct. This coverage does provide a positive degree of external monitoring.

Stringent applicant standards have a positive effect on many trends. Members believe that high applicant standards were an absolute necessity in police work. Most thought a direct correlation between high police standards and incidents of police misconduct existed.

In viewing the Cross Impact Analysis table and listening to group members, it was evident that event four and five could be viewed as a negative influence depending on what trend was being discussed. Three discussion questions arose from the panel:

- Will the non-traditional union improve or hinder the quality of policing expected?

- Will the relationship between the police union and the community improve or deteriorate?
- Will unions become adversaries to change?

Members were firm in their belief that police unions must be responsible to the public. Truth and honesty are traits that all agree are essential to law enforcement. It was the belief that unions should represent their members however, not when the representation is blind to the truth. Members agreed that unions might be negative and resist positive change.

The major observation is that the Nominal Group Technique process is a very time consuming process especially if you use a civilian panel involving a topic that is police related. Each invited panel member has a very busy schedule and time was precious. However, with having only one law enforcement officer present, a relatively untainted discussion and free flow of information resulted. The risk manager looked at police misconduct from a cost point of view whereas other members were interested in the ethical problems presented by police misconduct. The educator was looking at misconduct from the aspect that a police officer is a role model for children and misconduct taints that image. The assistant city manager and councilman were looking at politics and damage to the city overall, while the personnel manager was looking at what went wrong in the hiring process and what could be changed to prevent a recurrence of the same problems.

Each member agreed that until legitimate concerns of all stakeholders are acknowledged and just solutions applied, incidents would continue to occur. Each incident will involve those that trust or distrust the police.

The free exchange of information from different points of view was very worthwhile. One point that was of interest is the difference in geographic areas. Only two persons in the group were indigenous to the area. Others in the group pointed out that the police in the Coachella Valley treat people in general with more respect than in other areas of California where they have worked in the past. The two persons indigenous to the area stated they could tell the differences in attitudes and demeanor in police officers when traveling outside the Coachella Valley.

Scenarios

One way to look at the future is through the use of scenarios. Using imagination, historical information and the results of the Nominal Group Technique, three future scenarios were developed: a pessimistic scenario, an optimistic scenario and a surprise free scenario. These scenarios give one a view of the future.

Pessimistic Scenario

Administrative Lieutenant Hobson leans back in his chair staring at the stack of citizen complaints waiting to be investigated. Lieutenant Hobson

recalls that during the past years, police officers had been involved in several highly publicized cases of police misconduct. Other members of his department have been convicted or they are awaiting trial on criminal charges. Hobson's overworked section has investigated officers that have been violating the civil rights of others. Rogue officers have been stealing money and drugs, fabricating evidence, all with a feeling of impunity. This conduct is festering at an alarming rate due to the infamous Code of Silence. The Code of Silence is when officers chose not to see misconduct, testify against their colleagues, or cover up misconduct. Lieutenant Hobson wonders if officers understand how much this silence is damaging the law enforcement profession.

Lieutenant Hobson recalls when unions negotiated only for wage increases. Now police unions have become very powerful. Police unions can resist strong actions by law enforcement executives, administrative investigations and local politicians. The Code of Silence is strongly encouraged by some police unions and continues to hamper investigations by administrative investigation units and local prosecutors. Officers breaking ranks from the union and fellow officers find themselves ostracized and treated as lepers. Lieutenant Hobson shakes his head trying to make sense of the growing caseload.

Hobson glances at a recent article on administrations. The article states that the lack of state prosecutions has caused the federal government

to allocate more resources in an effort to prosecute more officers on violations of federal civil rights. This causes federal prosecution of officers to indicate a dramatic upswing in police misconduct nationally. Recent surveys indicate that the number of law enforcement officers in federal prisons has risen by more than 300 per cent in ten years. While most of these cases are drug related crimes, the numbers also show rises for brutality and other forms of police misconduct.

The article continues with information indicating that the Justice Department has shown an increase among investigations where departments are engaged in a pattern or practice of police misconduct or civil rights violations. This change has been due to departments systematically ignoring police misconduct, racism, corruption or other abuses of the system. Hobson knows that his department is one that aggressively investigates, disciplines or prosecutes persons for misconduct or criminal violations.

Law enforcement agencies are finding large portions of current budgets redirected. Instead of being used for fighting crime, budgets are used for fighting lawsuits brought about by private citizens, lawyers and the Federal Department of Justice. Lieutenant Hobson thinks of other ways the department could use the money that it spends to investigate misconduct. Hobson wonders to himself, "When is this going to end?"

Optimistic Scenario

It is January 2005, and Sergeant Smith has examined the new code of ethics established by the department to give guidance to new officers about questionable improper conduct and practices.

Under the new departmental procedure, a police officer can accept gifts as long as the gift is not cash, or can be exchanged for cash, and does not come from a business that can create a conflict of interest. Each officer is now required to complete a conflict of interest form prior to receiving a new assignment to a division.

This policy comes as a result of senior training officers encouraging recruits to ignore the numerous hours of ethics taught in the academy. Recruits were encouraged to, "Forget everything that they taught you in the academy, you're on the streets now." It seems that senior officers were teaching the new recruits to become involved in some undesired and improper activities. Once a recruit is out of the academy he begins to selectively forget departmental rules.

It was a departmental sting that discovered the vast problem of misconduct and kickbacks from towing companies. Officers would give preferential treatment to selected tow companies and receive monies back as a rebate. During the investigation many officers were implicated in the sting. Older officers actually encouraged the younger officers to take these rebates.

The new code of ethics also attempts to break the Code of Silence. Officers can call a recorded telephone line to report information about other officers suspected of being corrupt. The anonymous method is an attempt to protect an officer's identity for being a whistleblower.

Officers are encouraged to ask themselves, am I making an ethical, moral and legally correct action prior to engaging in a questionable activity? If these questions are answered yes then the activity is usually acceptable.

Sergeant Smith remembers the past bad times when misconduct was always present. Smith yearns for the days when a community was entitled to expect police officers to be beyond reproach in matters of ethical conduct both professionally and privately. Sergeant Smith wonders how things will change with the new training and emphasis on ethics. He hopes everything turns out for the best.

Surprise Free Scenario

Captain Peel sits in the Community Policing office thinking to himself. Although everyone pats each other on the back for the latest trend in policing, community policing is not new and was imported from England many years ago. This simple principle stressed close ties with the police and community they served.

Captain Peel remembers his history lesson on policing that he received early in his career. Community policing has no centralized control. This

practice lead to corruption, especially during the days of prohibition and mobsters. Bribe taking and mob corruption was widespread in many police departments. Peel remembers the police reforms that established professionalism by establishing military command structures and rigid performance standards. Coupled with advanced technology such as radios and motor vehicles, departments required fewer officers and allowed officers to patrol larger areas. Peel remembers knowing everyone in his beat area. Now Peel is lucky if he sees each of the officers let alone knows any of the people he serves. Peel remembers feeling distanced from the people on the beat.

How ironic that it took an act of misconduct in March of 1991 to demonstrate the result of the police reforms. Police officers must return to the basics of policing. All officers must learn to listen patiently and openly to those who are critical, since it is community relations that must be improved. Police/citizen street encounters must become person-to-person encounters not us versus them. Confrontational encounters are all too often the end result.

Politicians, community leaders and police alike called for a return to community policing to restore trust between the police and community. Captain Peel thinks about the same principles that were used over 160 years ago by his great, great grandfather Sir Robert Peel.

Each of these scenarios offers a vision of the future to determine the impacts of police misconduct. Many trends and events relating to police misconduct will be within an agency's control, however, some trends and events will offer strong resistance to change and several will be beyond an agency's control.

During the trend and event discussions, one commonly identified factor associated with police misconduct is unwillingness for police officers to talk about another police officer. This unquestioned loyalty to each other is an absolute necessity during critical incidents but the same loyalty can cause minor cases of police misconduct to become a major problem that is out of control. In addition, there will always be an opportunity to become involved in misconduct. The cause might be inadequate supervision, lack of training, neighborhood ties or personal pressures.

It was also evident that each panel member judged police misconduct by a variety of external factors. External influences include media, neighborhood, community, political, union and each member's individual standard. However, each external factor had a direct relationship with the trends and events discussed by each member.

CHAPTER III

STRATEGIC PLAN

This chapter will be devoted to establishing a strategic plan to determine what the impact of police misconduct will be in the future. New methods in recruitment, selection and training to prevent police misconduct must be implemented. An additional impact is the cost of damages paid to victims and their attorneys, as well as the perception by the community of less public trust. Less trust creates a divide between the police and the public.

Strategic planning is a systematic way to create and manage a desirable future based on the identification of trends and events that may impact an issue. It can be further defined by taking into consideration the anticipations of the unknown future to bear on today's decisions.^{xiv}

In developing a strategic plan and implementing change, there will be fear and cynicism by many officers if not done correctly. Many organizations have attempted programs in the past but few changes have been realized. Some fear will go away and the cynicism can be addressed by meaningful discussions with most employees. Concerns cannot be met with a top to bottom form of communication.

As with any major organizational change, such an ambitious effort must begin with a description of where you want to go and what are the

desired results. The organization must decide what it is doing, where it is going and what needs to be changed. Objectives might include concepts that are radical and require much needed change.

Mission Statement

The mission of every sheriff's department is to ensure the safety of every person who lives, works and visits their prospective counties. Each deputy is dedicated to the fair and equitable treatment of all, thus the achievement of superior law enforcement. Each member of the department understands the importance of working with every member of the community to provide the highest quality service possible.

Law enforcement organizations of the future will need to pay considerable attention to police misconduct in order for them to survive and prosper. Each organization's administrators will constantly need to review and adapt to a rapidly changing society. Utilizing a situational analysis, the following are some considerations:

Social

- Generational shifts
- Shifting demographics
- Technology based work place
- Disappearing birthrate of developed nations
- Changes in values based on income
-

Technology

- Society without boundaries
- Altering peoples' attitudes and expectations
- Changing the media

Environmental

- Increased commuting time
- Increase in immigrants

Economic

- Increased costs of recruiting
- Increased costs in training
- Changing technology
- Costs of recurring training
- Increased costs in civil claims
- Americans are divided into African, Native- American, Mexican and other special interest groups
- Lack of political backing
- Political party splintering

Leaders should develop a mission statement that will be a guide during the transition process. The statement will contain some of the following:

- The statement will define areas of operation
- The statement will express values and beliefs
-

- The statement will allow for communication inside and outside of the organization
- The statement will provide strategies
- The statement will help build commitment
- The statement will ensure consistency

The mission statement and organizational values will provide an anchor in the face of anticipated change, thus keeping organizational stress to a minimum. The mission statement and strategic plan will keep the organization focused on doing the right thing for the right reason.

Organizational Analysis (WOTS UP)

Law enforcement organizations of the future will need to recognize outside influences prior to implementing a new program designed to improve police accountability. By using the organizational model of “WOTS UP”, departmental leaders can focus on organizational improvements in the areas of Weaknesses, Opportunities, Threats and Strengths. These categories can be helpful in developing organizational strategic plans. The plan is an objective scan and analysis of a particular organization’s strengths and weaknesses. The following are areas to be considered when evaluating officer accountability and impacts on an agency.

Weaknesses

- The department does not support the considered changes in methodology of handling cases of misconduct.
- Changes in accountability encounter major union opposition.
- Rank and file personnel do not understand or accept the new concepts such as an accountability matrix.
- The organization does not have the funds and political support to develop and implement. Alternate sources of resources must be found.
- If there are insufficient resources should the department implement the plan in phases?

Opportunities

- The impact can improve police accountability.
- The change can strengthen the community's faith in law enforcement.
- The change can help in the standardization of discipline issued to departmental employees, minimizing the good old boy system.
- The change can help to eliminate questionable hiring of unfit personnel.

- The change can help to minimize monetary damages awarded for torts committed by law enforcement personnel.

Threats

- Police unions will fight any positive changes causing failure in programs trying to improve police accountability.
- There will be apathy by stakeholders and therefore full support might not be achieved.
- When positive changes have been implemented, support and funding might be pulled thus killing an innovative program.

Strengths

- Unwavering support for changes in police accountability by stakeholders.
- Overall departmental moral would increase due to positive change.
- Allows for a strong, fully staffed and funded Internal Affairs Unit.

Each organization has a major group of constituencies or stakeholders whose needs should not be ignored. A stakeholder is anyone who has the power to exert influence on the organization or is strongly influenced by an

organization. A stakeholder can be an individual, group of people or another organization. Each brings a unique involvement to the organization, different interests and a subjective set of expectations to the table. If an organization chooses to ignore any stakeholder, then the organization is proceeding at its own risk.

Recognizing the Stakeholders

Who are the most critical stakeholders both inside and outside the organization? Which of these stakeholders are the most important? The most important stakeholders are the various communities at large, and other governmental and non-governmental providers of service. Special interest groups and the general population are very important to the support of the department. If one or more group is displeased with the service or their interests are being neglected, then roadblocks can occur to the strategic plan. These groups are positioned to lobby against the plan by using media attention. It is best to involve stakeholders on the initial planning. The following table lists important stakeholders.

Internal	External
Sheriff	Community
Executive Staff	Elected Officials
Command Staff	County Managers
Sheriff's Personnel Bureau	Department Heads
Rank and File	Community Groups
Reserves and Volunteers	Special Interests Groups
Labor Organizations	Merchants
Task Force Groups	Allied Law Enforcement Agencies

Stakeholders

Table 3.1

Stakeholder Expectations

Each stakeholder group or individual has its own needs and expectations when considering the organization and each has varying levels of potential to sway how and if a vision is implemented. Some may be very interested in how the organization affects their own life while others may be non-committal. However, a stakeholder may react negatively and perhaps forcefully to any decision that is deemed undesirable. When making changes, attempt to accomplish an agreement or at the minimum, a compromise. This will help to achieve success in any new program.

Strategy Selection

Having an idea of where the organization is heading is simple. Implementing a plan to get there can be a mind-boggling task. When one decides to change, does it happen alone or are outsiders called in to help?

The executive staff must set the tone for any organization and some hard choices must be made.

When considering the importance of misconduct in the future a careful assessment of an organization should be made. Each person should have a clear idea of how to proceed. Can the organization proceed immediately or are there issues blocking the organization from moving ahead? By recognizing potential issues a plan can be implemented to minimize obstacles.

Operating on the theory that law enforcement executives and police unions desire change in the methodology used in handling police misconduct, a method of implementing must be agreed upon. Law enforcement executives must ensure that the command staff understands and implements the strategic plan in order to achieve the desired results. If the command staff is not supportive and committed to change, the system remains clouded.

The next chapter is one method of transition management with a broad course of action for agencies to mitigate the impacts of police misconduct in the future.

CHAPTER IV

TRANSITIONAL MANAGEMENT

Developing the Transition Plan

For an organizational strategic plan to achieve meaningful transformation, a strong guiding hand must take the controls. Law enforcement executives must determine where they want to go and ask, “What trends and events might impact the future if we continue on this path?” Our strategic plan is our road map to where we are going. Our transitional management is the driver that is going to take us there.

The law enforcement executive can break down the desired change into a sequence of tasks, activities and timelines set in a diagram to show how the project will progress from start to finish. This also allows for the change to be completed on schedule. Ongoing monitoring of the desired change is necessary to determine the progress of the program. Each agency is different in its make up and timelines will be dependent on the established organizational culture of each agency.

The following group of people should be considered when affecting police misconduct through change:

- Sheriff
- Executive Management Team

- Middle Management
- First Line Supervision
- Police Union
- Internal Affairs
- County Council/Risk Management

The sheriff as the chief law enforcement executive for the county, should be classified as the transitional manager. This position is due to knowledge, experience and forward thinking based upon how the sheriff visualizes the agency. It is the sheriff's ultimate decision as to whether an agency remains status quo or progressively moves into the future.

Supporting personnel for the sheriff should be the executive staff or an administrative designee. The sheriff's designee should be designated the project manager. It is the project manager and transition team that actually guides and ensures that the desired changes occur. A transition team or committee may include members from all of the parties involved in the change process.

Implementing Change

In the past, we knew what was expected from our communities, politicians, special interest groups and employees. For many years the organization and community were stable and unchanging. People were even

discouraged from wanting change and advised not to cause dissention.

Today that is rapidly changing and one must accept the fact.

Methods successfully used and accepted in the past are now changing with future trends that are reshaping organizations. Early management assumptions and theories were directly tied to the reality of the day-to-day operations of the organization. However, many of those principles have outlived their usefulness. In fact, many principles are so far removed from today's world that they have become detrimental to transitional management of the strategic plan. It has become time to formulate new methods that are more applicable to the future of law enforcement.

Law enforcement organizations are traditional paramilitary organizations with a strict top to bottom chain of command. Everyone answers to the person above him or her within the bureau or station. This bureaucracy can cause a large organization to be slow to react or implement desired changes. In today's society, this can cause significant problems for an organization.

As organizational leaders, we need to recognize the need for change.

It is also necessary to determine if the organization is ready for change.

It is absolutely essential for an organization to be ready for change prior to implementing a program. Even the most creative plans will grind to a halt if change is not desired. Law enforcement executives may ask themselves several questions:

- What values are necessary for the new plan to combat misconduct?
- What type of performance in support of the plan is encouraged, recognized and rewarded?
- What is the best way to organize for implementation of the plan?
- What new policies, procedures and processes are needed to develop to increase accountability?
- What skills will be necessary to train and change an established culture?^{xlvi}

The answers to these questions need to be well thought out prior to implementing change. Once in place, these changes need unwavering support from everyone.

To effect positive change an organization must allow for the following:

- Determine the need of the organization.
- Establish the visionary team.
- Develop a strategy.
- Share the vision.
- Allow reasonable risk taking.
- Re-evaluate.^{xlvii}

Most police officers are creatures of habit and therefore seek stability and resist change, especially if the change is dramatic and has never been

tried before. This challenge may affect working relationships that have been stable for many years. If not planned and implemented slowly, resistance is guaranteed.

Still, there are things that can be done to minimize fear and resistance to change:

- Communicate with employees prior to implementation and provide a method for feedback.
- Implement changes deliberately, make sure everyone understands what is the intent with minimum of disruption. Employees resist change less when there is a need for change and they have input.
- Begin change with a single small unit to ensure the program works and to alter items that cause problems. Smaller groups can provide immediate feedback and minimize memo writing.
- Establish change in new or younger leaders with a more flexible attitude.
- Ensure that comprehensive training is given to all employees prior to full implementation of the plan.
- Foster a culture that allows change so that it becomes part of an evolving organization.

Overcoming resistance is the first major step to successful change in any organization. Resistance may come in one of several ways. The first type of employee aggressively resists change. This employee is vocal that change is bad. The second type of employee is more dangerous to the organization's well being. This employee has a covert style of resistance. The employee seems publicly in favor of the plan but secretly resists the plan. Some employees will take a wait and see attitude while others welcome change.

Once employee resistance has been recognized and minimized meaningful change can occur in the organization. A good transitional management plan will stimulate the morale of any organization. Once the change occurs, employees will accept the process with little resistance. This includes many of the employees that offered strong resistance to the plan. Once accepted by the majority of the employees, then change quickly moves the organization in the desired direction. The key is to gain a commitment from the people so they are willing to participate. Employees cannot be coerced or threatened to accept change.

Today's society is constantly changing. It is absolutely critical that police organizations be able to change as society changes. Just as today's society is different than yesterday's, tomorrow's will be different than today's. Today's society mandates a higher level of service and response to police misconduct. Police organizations must be more responsive to the

customers that we serve when it comes to complaints, police misconduct and service. How an agency performs will ultimately determine community support.

The public's attitude has changed towards police agencies. The public demands greater accountability from police executives when it comes to police misconduct. Officers must be taught that police misconduct will not be tolerated.

It is an absolute necessity that police executives be aware of changes in society to provide the level of accountability on police misconduct demanded by the public. An agency's policies, procedures and training must take into consideration these factors.

CHAPTER V

RECOMMENDATIONS AND CONCLUSIONS

To be successful at determining the impact of police misconduct in the future, one must look at our community. Law enforcement provides a service to the public. We must justify what we do and how we do it to every member of the public. This includes periodically standing back and critically examining each facet of the police operation.

To mitigate the impact of police misconduct in the future, several changes must be considered. New methods are needed in recruitment, selection, training, supervising, and tracking. The costs associated with these changes must be funded. The following recommendations are a broad course action for agencies that recognize the impact of police misconduct on the future.

Multi-Faceted Training

Police training is of paramount importance to police supervisors, law enforcement executives, elected officials and to the citizens of the community. Police academy training curricula may not cover major areas of human relations, cultural differences and communications as necessary in today's society.

Inadequate training, particularly ethical training in police academies and continuing professional training were identified as factors in police misconduct.^{xlviii} A creative and innovative academy staff will develop and implement specific result oriented training programs. Law enforcement executives should be visionary and develop proactive training program with successful models that will provide meaningful instruction and minimize the likelihood of misconduct. Meaningful instruction must address the positive and negative aspects of being a police officer. Included in the method of instruction should be a section on the frailties of being a human being.^{xlix} Merely providing the required number of hours of training in the academy and then forgetting about any other training for the officer is a grave error made by many agencies. This mistake is magnified if the academy training consists of the message “don’t get caught or you’ll be in trouble.”^l This type of training not only has little significance years later, but also conveys a message that a department is disinterested in the area of integrity.^{li}

Qualified Instructors

Instructors pulled from the field or supervisors who have spent twenty years on the job should not be allowed to impress young recruits with their vastly exaggerated experiences.^{lii} A person’s rank should not automatically qualify him for an instructor assignment. Any trainer with a substantiated citizen complaint history or several allegations of misconduct should be

looked at with a jaundiced eye.^{liii} Law enforcement agencies should not use personnel as trainers if the trainer has multiple sustained or unsustained allegations of abusive behavior. Personnel used as training officers should be role models of high ethical and moral bearing.^{liv}

Instructors should exemplify the type of behavior the department expects. Each employee should be taught that they are the department's ambassadors of good will. Each employee should know what is expected of him or her on or off duty. This specific instruction mitigates the employee's uncertainty of departmental expectations. Training must demonstrate the importance of attitude, understanding, respect and integrity. Also of importance is the officer's word inflection and body language. This is especially true in dealing with a multicultural community with beliefs different than one's own. This insight allows one to see other people's cultural perspective and how to civilly talk with them. Likewise, it allows officers to use their verbal skills to defuse a potentially dangerous situation without the use of force.^{lv} Police officers need to be positive role models and active participants in their community. Active participation in the community allows people to see the officer in a non-police setting. A proactive training program will provide the community with an ethical, well trained, culturally aware and hard working officer.

Police officers who are Field Training Officers are integral parts of an effective developmental process that promotes a positive learning

environment. Just as important is the role of sergeants as first line supervisors. Regularly scheduled roll call training by sergeants is critical due to their closeness to line personnel. If a change is to be made, it will most likely be by a sergeant. Sergeants must also receive meaningful training so they can possess the necessary skills to develop their personnel.^{lvi} A malcontent or lazy sergeant will cause problems with his/her negative attitude. Sergeants must be exemplary day in and day out.^{lvii}

A good sergeant will usually be the first to spot a potential problem employee. A myriad of potential problems, including job burnout, stress, drinking, drugs, financial problems, marital problems and heavy-handed responses, must be recognized and dealt with promptly. If the sergeant cannot solve the problem, the sergeant must know what services are available to the employee. Sergeants must be in tune with the vision of the department and what is expected of all employees. An effective sergeant must be well versed on community policing, cultural diversity, interpersonal communications and technology of the future.

Understanding All People are Unique

Training on cultural diversity as it exists, hopefully how it should exist, within the agency is a necessity. This training allows understanding of what communities within the county expect. With this very limited experience to multi-cultural areas, an officer is assigned to perform law enforcement duties

in a culturally diverse area. The result is that a patrol officer generates criticism from the public and minorities due to misunderstandings.

Enhanced innovative training should be given in the areas that generate the likelihood of abuse. Officers should receive additional training in methods of handling mentally ill persons and post pursuit arrests.^{lviii}

Independent Administrative Investigations

Administrative Investigations Units should be given resources such as personnel, technology, support staff and funding necessary to investigate and track all complaints. This will help to ensure greater accountability of law enforcement actions to complaints from the public. Internal Affairs Units should begin to use scientific methods of tracking misconduct.

Risk Managers have long been using a risk analysis method of measuring data to provide an insight to training and in mitigating exposure to liability. Database tracking of misconduct will provide the frequency, type, location, closure and the persons involved. Using this data, executives can minimize undesired conduct and identify areas of training that need to be changed or re-emphasized during the academy or in-service training. Internal Affairs should be used to educate academy cadets about the risks of misconduct. It is important to educate cadets on the social and monetary effects of misconduct on the officer and his family. The overall purpose of

Internal Affairs should not be to catch cops but to be aggressive through education and awareness.

Law enforcement administrators and Internal Affairs Units should look for and pay attention to the catch all charges of resisting arrest, disorderly conduct and assaulting an officer. Officers that frequently use Contempt of Cop charges without strong additional charges are heading for trouble. Many civil attorneys that routinely sue police departments look for the above charges as a method of filing lawsuits.^{lix}

Develop an Administrative Review Database to identify officers who have developed problems in dealing with the public.^{lx} Criteria for the systems could be developed and tailored to meet the agency's needs but should include complaints, law suits, unsatisfactory or needs improvement evaluation reports and an inordinate number of use of force allegations. This system would require Administrative Investigations to prepare, distribute and maintain a bi-yearly report of all officers who have been identified as the subject of a citizen complaint regardless of disposition.^{lxi}

Commanders should be notified of any officer that is the subject of a predetermined number of complaints in a report. The commander and supervisor can choose to talk with the officer about the circumstances involved in the complaint and what could have been done to avoid the complaint. If necessary, the officer could be scheduled for additional training depending upon the circumstances involved in the complaint. Refresher

training should be mandatory for anyone receiving more than one sustained complaint within a twelve-month period.^{lxii} The goal is to keep small problems from growing and to help officers be aware of career ending behavior.

Make it as easy as possible for any citizen to make a complaint. The complaint form should be written in a manner that makes it easy for any person to complete without regard to their educational level. Citizen complaint forms should be placed in all contract city halls and community centers of contracting agencies. Law enforcement executives should look at the process as a quality assurance program, much like any other service provider.^{lxiii}

Civil Liability

Claims for civil damages against police officers and departments have become a common way for attorneys to attack the deep pockets of a city. These claims have resulted in large municipalities paying attorneys and their clients tens of millions of dollars.

The plaintiff success rate varies dramatically from city to city and area to area. Some cities settle early and others maintain a vigorous defense. It is estimated that the City of Los Angeles paid 79.2 million dollars in claims between 1991 and 1996. The recent Rampart scandal will cost the City of Los Angeles its image and approximately 200 million dollars.^{lxiv}

Conclusion

Though the mission of law enforcement is different from years past, progress has been clearly made in mitigating police misconduct. Law enforcement executives as well as rank and file officers understand police misconduct jeopardizes good law enforcement service.

The current administrative and legal procedures used to mitigate police misconduct are flawed and resisted organizationally. Problems that are highlighted in this report are not new and are recurring daily events in law enforcement agencies nationwide.

These failings usually fall within several basic categories: lack of proper recruiting, incomplete or poor background investigations, inadequate recruit or in-service training programs, under funded internal affairs units, lack of supervision, and the failure of police management to promote ethical behavior.

Police agencies with little or no incidents of police misconduct demonstrate appropriate ethical behavior, positive attitudes by employees toward one another, and a definite loyalty and pride in their organization and profession.

Each agency must maintain realistic expectations and consider a cadre of remedies in mitigating police misconduct. Law enforcement executives must realistically evaluate the limitations of the agency and work within those identified limitations. Law enforcement leaders must understand that

even with new strategies in recruitment, selection, improved funding, there is no magical solution for every case of police misconduct.

Importantly, leaders must realize the substantial benefit to the organization, community and governmental entity if funds are allocated and personnel are trained to mitigate police misconduct in the future.

Without this commitment to meaningful change, impacts include civil litigation, adverse publicity for the officers and their families, friends and coworkers, and the deterioration of trust and co-operation between the community and police.

ENDNOTES

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