

HOW WILL AN ENHANCED EARLY INTERVENTION PROGRAM  
IMPACT POLICE MISCONDUCT IN A LARGE URBAN LAW  
ENFORCEMENT AGENCY BY 2008?

A project presented to the  
California Commission on  
Peace Officer Standards and Training

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

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

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

The views 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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CHAPTER ONE  
ISSUE IDENTIFICATION

Statement of the Issue

The most important asset any police organization can ever hold is the trust and confidence of the community it serves. Such trust and confidence literally takes years of dedicated work by many people to develop and can be destroyed overnight by actions of just a few. With this in mind, many major city law enforcement executives have collectively spent many sleepless nights contemplating how best to prevent becoming the subject of a nationally covered police misconduct scandal.

In the past decade, many large law enforcement agencies across the United States have been forced to confront the intense public backlash that has resulted from highly publicized acts of alleged police misconduct. Police departments in Los Angeles, Cincinnati, Oakland, New Orleans, Washington D.C., Detroit, and several others have all faced such scandals and have struggled to regain the confidence of their communities. As a result of consent decrees and other settlement agreements signed in lieu of litigation, each of these jurisdictions has agreed to develop and implement some type of early intervention program to help them identify officers who exhibit a pattern of misconduct or other at-risk behavior.

Federal law enforcement agencies have not been immune from such scandals. The Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, and Firearms (ATF), and the Border Patrol each have been the subject of intense criticism as a result of high profile cases involving their investigators or managers. Taken as a whole, these

scandals have understandably rocked the public's trust and confidence in law enforcement.

This research project seeks to answer the following question: What will be the implications of implementing a non-disciplinary early intervention program in a large municipal law enforcement agency by the year 2008. For purposes of this project, a large law enforcement agency is defined as one that employs in excess of five hundred sworn personnel. It is hoped that the research and case studies in this report will provide any major city law enforcement executive who is looking to implement an early intervention program with a template or starting point to successfully launch such a program.

### Introduction

There exists significant evidence indicating that a small percentage of police officers in most police departments are responsible for a disproportionately large number of citizen complaints.<sup>1</sup> To address this phenomenon, law enforcement executives have sought a mechanism outside of the disciplinary process that will allow them to identify these problem officers at an early stage and to offer them appropriate counseling before their behavior becomes career threatening.<sup>2</sup>

Early intervention systems (often referred to in the scholarly literature as early warning systems) have become the standard method by which police executives identify and track at-risk officers.<sup>3</sup> There are three main elements to such early intervention programs: the selection of program referral criteria, the intervention session, and the post-intervention monitoring system.<sup>4</sup> This project will examine some of most commonly used early intervention programs and identify some of their strengths and likewise highlight

some of their weaknesses. At the conclusion, a preferred option for implementing an early intervention system will be presented along with a recommended implementation plan.

Although the information found in this project is applicable to any major law enforcement agency, the agency on which it is based will be the San Jose Police Department.

### Environmental Scanning

With the increased interest in police accountability issues throughout the United States, criminal justice researchers have started to focus attention on improved risk management strategies that include comprehensive early intervention systems. The two leading researchers in the field of police accountability have produced the core of the available literature. Dr. Samuel Walker from the University of Nebraska, Omaha and Dr. Geoffrey Alpert from the University of South Carolina have both written books and monographs highlighting early intervention systems. Their work has been used as a starting point for many departments in their attempts to implement an early intervention program.

Their recent research, funded by the National Institute of Justice (NIJ), on early intervention systems reveals that large departments are more likely than smaller agencies to have formal intervention systems.<sup>5</sup> In 1999, NIJ—the U.S. Department of Justice’s research arm—surveyed 832 local law enforcement agencies to determine what percentage were utilizing or developing some type of early intervention system. This survey of municipal and county police departments (as well as sheriffs’ offices) found that in agencies with over 1,000 sworn personnel, 79 percent currently have or are developing

early intervention systems. In agencies with between 500 and 1000 sworn personnel, 56 percent have or are developing an early intervention system. Table 1.1 shows the results of the NIJ survey.

#### USE OF EARLY INTERVENTION SYSTEMS

	Percentage of Departments Surveyed that Currently Use or are Developing an Early Intervention System
Number of Sworn Personnel	
50-499	39%
500-999	56%
1000+	79%

Table 1.1

In June 1999, President Bill Clinton and Attorney General Janet Reno convened a conference entitled, “Strengthening Police-Community Relationships.” At this meeting, they brought together 250 law enforcement, civil rights, government, and community leaders to discuss issues surrounding police misconduct, use of force, racial profiling, and police leadership/management techniques. At the conference, the president personally moderated a panel on police-community relationships and emphasized the need to increase the level of trust and confidence that citizens have in local law enforcement.

One of the key recommendations that came from this conference relating to police leadership and management techniques was to:

Identify, develop and use performance measures and detection systems (early warning, remedial monitoring, etc.) that reliably disclose to the diverse stakeholders in a timely fashion whether front-line police employees, supervisors and managers are conducting themselves professionally, so that unwanted conduct can be altered and exemplary work can be honored and emulated.<sup>6</sup>

Another concern of law enforcement executives is that there is a bill currently pending in the California legislature that would mandate the implementation of an early intervention system in every local law enforcement agency with more than one hundred sworn personnel.<sup>7</sup> All one needs to do is look at police departments around the country to see the benefits of implementing an early intervention program. The case studies of both the Miami-Dade and the New Orleans Police Departments are good examples.

### Case Studies

Following a series of high profile use of force incidents involving minorities in Miami-Dade County, Florida, in the late 1970s and the early 1980s, the Dade County Commission and the Miami-Dade Police Department implemented a series of police accountability reforms to help improve the level of trust between the police and the community. In addition to opening up most of the department's administrative misconduct investigations to public scrutiny, the Miami-Dade Police Department also created and implemented one of the nation's first early intervention systems in 1981.<sup>8</sup>

This new program was known as the Early Identification System (EIS) and was used to track officers who received two or more citizen complaints or who were involved in three or more use of force cases in the previous three months. Each month, the Internal Review Bureau (Internal Affairs) compiled a list of the officers meeting the listed criteria and directed the officer's supervisors to conduct an informal counseling session with the listed employee.<sup>9</sup> The purpose of the counseling session was to assist the employee with identifying problematic behavior and to offer appropriate referrals through the department's Employee Assistance Program (EAP).

The impact of the new system was impressive. It served to not only hold officers accountable for their conduct, it also required that first line supervisors become engaged with at-risk employees at an early stage. Since its inception, the EIS has evolved into a highly sophisticated database that is used by department managers as an important risk management tool.

Another department that has a shorter, but still notable experience with early intervention systems is the New Orleans Police Department. In 1995, the then newly appointed Chief of Police Richard Pennington took the helm of a department widely known for its internal corruption problems. The corruption was so significant that one officer was even arrested for arranging the murder of a woman who filed a use of force complaint against him.<sup>10</sup>

Chief Pennington immediately implemented a ten point anti-corruption plan that had as its cornerstone an early intervention system. The New Orleans model, known as the Professional Performance Enhancement Program (PPEP) includes not only data about citizen complaints and uses of force, but also has several other anti-corruption features such as random integrity testing (stings) of officers. The PPEP was an important tool that allowed Chief Pennington to reduce misconduct levels to historic lows.

### Summary

In a majority of U.S. police departments, a handful of officers are responsible for a majority of misconduct allegations. In the past ten years, law enforcement executives have been under significant pressure to develop formal, non-disciplinary intervention programs to help identify and counsel officers who exhibit at-risk behaviors that often lead to

misconduct complaints. The purpose of this project is to examine the current state of non-disciplinary early intervention programs that are currently in use and to determine the implications of implementing such programs in large law enforcement agencies in the next five years. Furthermore, this paper will serve as a template for strategic planning and the implementation of the preferred model of a non-disciplinary early intervention program.

In the next chapter, the concept of future forecasting is introduced as a method to identify trends and events that will assist in the development of strategies important to the implementation of an early intervention system.

## CHAPTER II

### FORECASTING THE FUTURE

#### Introduction

Future forecasting is a deliberative process that allows one to project what the future may look like based on an analysis of wide array of data trends.<sup>11</sup> One of the methodologies used to identify important trends in an area of study is the Nominal Group Technique (NGT). The data resulting from the NGT process is then subjected to a cross impact analysis, which in turn can be used to forecast the impact of important trends and events that may influence a particular issue. Based on this data analysis, alternative future scenarios can be developed to help decision makers take actions that maximize the possibility of positive outcomes and minimize the chances for negative outcomes. It should be noted that the mean scores were used in all calculations derived from the NGT process used in this project.

#### The Nominal Group Technique

The NGT is a structured, facilitated group process, which identifies and ranks major trends and events that are related to an issue under study. It is also used for managing participation in such processes as planning, performance improvement, and measurement. The NGT process can be an effective tool used to identify the major strengths of a department or institution, to ensure that all process participants have an equal voice, and to assist in generating a prioritized list of trends and events that are arrived at by group consensus. The process minimizes the undue influence that can affect group decision

making when one or more strong personalities are present and forcefully inject their will upon the group.

For this project, the NGT panel consisted of six individuals who were selected to provide informed, yet diverse, perspectives on the issue surrounding non-disciplinary early intervention systems for police officers. The panel was intentionally limited to participants representing the broader criminal justice community. This was done as the nature of the topic calls for specialized knowledge of California's statutory scheme relating to procedural due process rights and the confidentiality of peace officer records.

The NGT participants included a deputy district attorney, a POST Commissioner who also serves as a police association vice-president, a deputy public defender, an appointed independent police auditor, a former Internal Affairs Unit Commander (acting), and a patrol lieutenant (See Appendix A for complete panel information).

In advance of the NGT panel meeting, all of the participants received a letter containing logistical information and a brief description the NGT process, as well as the definitions of both trends and events as they pertain to the issue statement. In the letter, each panel member was asked to bring with them a list of trends and events that may affect the implementation of a non-disciplinary early intervention system in a large law enforcement agency in California.

Prior to beginning the NGT session, all of the panel members were briefed on the professional backgrounds of their fellow panel members.<sup>12</sup> They also heard a short presentation on the history of early intervention programs for law enforcement agencies.

Following this briefing, the panel engaged in a round robin presentation of the trends and events that they had generated in advance of the meeting as well as some additional

trends and events that were identified during the meeting. The panel identified a total of forty trends and twenty-eight events that they felt might influence the project topic. After some group discussion, it was determined that some of the listed trends were closely related to others so that they could be combined and/or eliminated. The panel then ranked both the trends and events by order of their perceived importance and influence on the project topic. The group identified eleven trends and nine events that they found most significant (see Appendices B and C).

### Trend Identification

Trends are defined as a series of incidents or events, which appear to indicate a direction in which a particular issue may be heading. It covers not only past data points but encompasses present and future data as well. Trends can be measured either quantitatively or qualitatively.

The NGT panel assessed the impact of eleven identified trends over time and assigned to each a value at specific point in time (5 years ago, 5 years from now, 10 years from now). Table 2.1 represents these assigned values as well as a numeric value indicating the panel's opinion as to the level of concern for each trend. The measure of level of concern is on a scale ranging from 1 to 10 with ten representing the highest level of concern.

Table 2.1 depicts the trends identified by the NGT panel during their deliberations.

## TRENDS

	Trends	-5 Years	Today	+5 Years	+10 Years	Concern
1	Level of proactive enforcement by law enforcement	120	100	100	115	9
2	Number of female officers	89	100	100	104	3
3	Level of scrutiny of sworn personnel	93	100	109	107	10
4	Number of civilian oversight agencies	79	100	105	108	10
5	Number of officers who are able to afford living in the community where they work	111	100	108	103	8
6	Number of departments that have community-based special enforcement programs	89	100	97	107	6
7	Number of departments that utilize an intervention program that includes supervisory ranks	2	100	233	700	10
8	Number of patrol cars with in-car video cameras	28	100	168	340	6
9	Level of education attained by officers	90	100	116	113	8
10	Number of police use of force cases	122	100	104	105	10
11	Number of parolees released into the community	102	100	122	119	3

Table 2.1

The NGT panel made the following comments concerning the eleven trends they identified as most important:

### Trend 1: Level of proactive enforcement by police officers

The level of proactivity refers to the overall number of self-initiated law enforcement contacts generated by police officers. This includes vehicle stops and pedestrian stops that are generally not associated with a call for police service.

All but one of the panel members believed that the proactivity levels were higher five years ago than today. They believed that the reason for the decline was

due to increased public scrutiny caused by high profile cases such as the Diallo and Louima cases (NYPD) and the Rampart investigation (LAPD). One panel member believed that since 9/11/01, there has been an increase in proactivity as officers have been given more latitude to do their jobs in light of the war on terrorism. The panel was unanimous in their belief that the level of proactivity will increase, but for different reasons. One panel member thought that new and better technologies would spur officers to become more proactive. Another suggested that crime will increase requiring officers to become more proactive, while two others believed that the level of officer proactivity is cyclical and will be trending upward. One panel member believed that there would be an increase in proactivity in the next ten years due to a large influx of new officers hired to replace officers retiring during this period.

#### Trend 2: Number of female officers

This trend reflects the total number of women in sworn law enforcement positions. The panel noted that there are more women currently serving in law enforcement than there were five years ago. One panelist suggested that if there are a number of women war heroes in the Iraq War, then law enforcement will experience a trickle down effect with more women seeking law enforcement jobs. Another panel member believed that the number of women in law enforcement will decline in the next five years as the trend toward family values will cause more women officers to leave the profession to be home with their families. As to level of concern, one panelist believes that the number of women in law enforcement is a significant measure as women receive fewer misconduct complaints and are named in fewer

lawsuits than their male counterparts. Another panel member indicated that he believed that the number of sworn females would have no impact on the implementation of an early intervention program.

### Trend 3: Level of scrutiny of sworn personnel

During the last decade, police officers have been subjected to increasing levels of scrutiny and accountability, both from the communities they serve as well as from their own organizations. The panel recognized that although there are a number of ways to measure this trend (e.g., number of civilian review boards), they chose not to identify a specific measure, rather they felt the generic level of scrutiny was appropriate.

One panelist noted that there was an upswing in the level of scrutiny five years ago because of the number of high profile misconduct complaints nationwide--beginning with the Rodney King case. This same panelist, along with one other, believed that new technology will allow for better accountability systems and thus drive an increase in the overall level of officer scrutiny in the next five years. However, reflecting an interesting view on the limitations of technology, two other panel members indicated that the available technology would level out in the next five years. One of these two believes that the change in law enforcement scrutiny is cyclic and that it will increase again in the period 2008-2013. The panel identified this trend as having the highest (10) level of concern. The primary reason for this high level of concern was the impact on the privacy of both officers and victims.

#### Trend 4: Number of civilian oversight agencies

A majority of the panel believed that, after five years of significant growth, there will be only a moderate increase in the number of these types of agencies. This is due to tight local government budgets and the perceived inability of civilian oversight agencies to effectively function. One panel member believed that civilian oversight is a growth industry, particularly because of the interest shown by municipal risk managers. This same panel member also believed that there will be an expansion of such oversight agencies into smaller and smaller communities.

The panel also identified this trend as having the highest level of concern (10). The consensus was that whatever the number of civilian oversight agencies, their impact on the implementation of early intervention systems will be significant.

#### Trend 5: Number of officers who are able to afford living in the community where they work

The NGT panel identified the cost of housing as a significant issue as it relates to officers residing in communities in which they work. One panel member believed that, although law enforcement wages have risen significantly in areas with high housing costs, such increases are still insufficient to bridge the housing affordability gap. Another member remarked that she believed housing costs would plateau for a brief period and then continue their upward climb. A third panel member projected that there will be a long-term decrease in productivity as officers consciously decide not to stop people in an effort to minimize end of shift overtime and the potential for being called to court on their days off.

The panel assigned a level of concern score of 8, indicating that affordable housing for officers is an important issue that will continue to confront law enforcement executives into the future.

Trend 6: Number of police departments that have community-based special enforcement programs

The panel members believed unanimously that with the poor economy and the resulting budget cuts, such programs would undoubtedly be among the first programs to be cut. After a brief period of reduced funding, the panel believed that there will be an increase in such programs to a level that exceeds the present number.

Trend 7: Number of departments that utilize an intervention program that includes supervisory ranks

The entire panel recognized that this type of program is new and has not been adopted by many departments. The lack of experiential data on such programs serves to limit discussion about its usefulness. However, the NGT panel rated the level of concern as 10, expressing their collective belief that such programs will serve as the cornerstone of modern police accountability systems. This belief was based on the panel consensus that current accountability models are inadequate to effectively address at-risk behavior before it reaches levels requiring disciplinary action.

#### Trend 8: Number of patrol cars with in-car video cameras

The use of in-car video cameras generated significant discussion by the panel. Most panel members believe that as camera technology improves and costs decline, more departments will utilize these devices. Furthermore, the panel consensus was that as the technology improved, there would be a reduced need for second officers or supervisors at a scene to corroborate the facts of a case, as the video camera would serve as an independent witness.

The panel also believed that the use of this technology becomes more common, the easier it will be for the other people in the criminal justice system to do their jobs (e.g. judges, prosecutors, and defense attorneys). Added to that notion is that, as both the quality of video and the consistency of its use improve, there will actually be a decline in police scrutiny, as everyone will know that the conduct of all parties is being recorded.

#### Trend 9: Level of education attained by officers

The NGT panel believed that people with high levels of education tend to choose careers in the private sector rather than public service. If the nation's economic slump continues, there will likely be an influx of well-educated professionals seeking a more stable job environment in the public sector. This will result in a short-term increase in the level of education, followed by a slight downward trend. The members also believe that municipal risk managers will push

for higher educational standards to reduce the potential for liability claims for judgment errors.

#### Trend 10: Use of force by police

More than any other trend, the NGT panel viewed the number of uses of force by police as the most important trend affecting the implementation of an early intervention system in large law enforcement agency. The panel consensus was that since the March 3, 1991 Rodney King incident, the use of force by law enforcement officers--particularly involving impact weapons--has gone down. They projected that there will be a slight upward trend in the next ten years as officers become more comfortable with the heightened level of scrutiny concerning use of force cases.

#### Trend 11: Number of parolees released into the community

The panel believed that this trend is heavily dependent on the U.S. Supreme Court's pending decisions on the constitutionality of California's three strikes law.<sup>13</sup> The panel consensus is that the current political environment is such that politicians must support tougher penalties for convicted felons. The panel assigned this trend a level of concern rating of three; however, they noted its importance because of anecdotal evidence that parolees have been encouraged by their defense attorneys to file misconduct complaints against police officers in an attempt to foster reasonable doubt in the minds of jurors hearing their cases.

### Event Identification

Events, unlike trends, are specific as to place and time. It is possible, however, that at some specific point along a given trend line, a significant threshold or “tipping point” in the trend is readily identifiable and can be properly characterized as an event.<sup>14</sup>

### EVENTS

	Events	Year >0	+5 Years	+10 Years	Impact (+/-)
1	U.S. Supreme Court overturns three strikes law	1	13 %	23 %	5
2	High profile criminal misconduct by a police officer	1	97	100	10
3	U. S. Supreme Court eliminates qualified immunity for police officers	3	11	11	-9
4	High profile, high tech crime committed by a police officer	1	96	100	8
5	Large scale protest resulting in deaths due to police action	2	10	11	2
6	Congress nationalizes police oversight	10	0	13	8
7	Police officer convicted of raping a university student	1	91	97	5
8	“Million Man March” in San Jose resulting from police misconduct	2	20	23	10
9	High profile use of force at the U.S. border	1	98	100	9

Table 2.2

The NGT panel identified nine events as having the greatest potential impact on the implementation of an early intervention system in a large police department. Table 2.2 depicts each of the nine events along with the first year that the event could possibly occur, the probability of occurrence in five years and the probability of occurrence in ten years. The column designated “Impact” depicts the panel’s assessment as to the weighted impact of each event rated on a scale of one to ten with ten representing the greatest impact. The

panel's designation of + or – reflects their collective view of whether the impact is positive or negative relative to the implementation of an early intervention system.

The NGT panel made the following comments concerning the nine events they identified as most important:

Event 1: U.S. Supreme Court overturns three strikes law

A majority of the NGT panel believes that the US Supreme Court is unlikely to overturn any of the three strikes cases that are currently or likely to come before it. In fact, the high court has recently upheld two of the pending cases finding three strikes to be constitutional. The panel also believed that any of President Bush's appointments to the court are likely to uphold such laws.

Event 2: High profile criminal misconduct by a police officer

If the law enforcement community in Santa Clara County were to witness a highly publicized and controversial use of force (similar to Rodney King), panel members believed that there would be intense political pressure to implement early intervention systems for all law enforcement agencies. The panel believes that there is 97% chance that such a high profile event will occur in the next five years. Thus, it is reasonable to project that there will be a significant increase in the number of early intervention systems locally as well as nationwide. The panel felt that such an increase would have a large and positive effect (+10) on the successful implementation of such programs.

Event 3: U.S. Supreme Court eliminates qualified immunity for police officers

Although the NGT panel believed that there is only small chance (11% within 10 years) that the Supreme Court will eliminate qualified immunity, they believe that if it were to occur, there would be a significant negative impact on the ability to implement early intervention systems as officers would likely view such systems as exposing them to either civil or criminal liability.

Event 4: High profile, high technology crime committed by a police officer

The panel believed that with the dramatic increase in computer crime, that if a police officer with high level access to computerized financial data were found to be running an international computer crime organization, there would be an outcry to implement some type of intervention system to prevent a reoccurrence. The panel also believed that such an incident is very likely to occur in the next five years.

Event 5: Large scale protest resulting in 25 deaths due to police action

The NGT panel was of the opinion that such an incident was unlikely to occur in the United States. Furthermore, if it did occur, it would be considered an anomaly and not have an impact on the implementation of early intervention systems.

Event 6: U.S. Congress nationalizes police oversight

The panel consensus was that if Congress nationalized police oversight, early intervention systems would become the national standard in law enforcement and

would be required for all police agencies. The NGT panel noted that this event was highly unlikely to occur in the next ten years.

Event 7: Police officer convicted of sexually assaulting a university student

The panel believes that a high profile, criminal sexual misconduct scandal involving a police officer would be viewed by the public in an extremely harsh light. The panel also believed there is a very high likelihood of such an event happening in the next five years. If an event like this does occur, the panel thought that it would have a moderate positive impact on the ability to implement an early intervention system.

Event 8: “Million Man March” in San Jose resulting from police misconduct

The panel felt that there was a low probability of this event happening in the next ten years. However, if such an event occurred, it would have a very high positive impact on the ability to successfully implement an early intervention system, as it would draw significant national media attention to the community and put pressure on all involved parties to embrace the new program.

Event 9: High profile use of force at the U.S. Border

The panel indicated that there is a high probability that this event will occur in the next five years and that if it does occur, there will be a significant positive impact. The panel also discussed how the impact might be lessened somewhat if the use of force was associated with preventing a suspected terrorist from entering the country.

### Cross Impact Analysis

A cross impact analysis consists of a study of what the impact of each of the listed events would have on each of the eleven trends identified by the NGT panel. Following the NGT panel meeting, a group of five San Jose Police Department patrol lieutenants was convened to conduct a cross impact analysis. The results of this analysis are depicted in Table 2.3. This table reflects the panel’s assessment on a scale of -5 to +5, with +5 representing the most positive influence on the topic and –5 representing the most negative influence.

This data can be used to identify those combinations of trends and events that may have a significantly positive or negative impact on the implementation of an early intervention system in a large municipal law enforcement agency. From this information, strategies can be developed to maximize the possibility of certain positive combinations occurring and minimizing the chance of the most negative combinations occurring.

### Cross Impact Analysis

	Trends										
Events	T1	T2	T3	T4	T5	T6	T7	T8	T9	T10	T11
E1	-2	0	0	0	0	0	0	0	0	0	-5
E2	-3	0	2	-2	0	0	2	2	2	0	-1
E3	-5	0	-2	0	0	0	0	3	2	-5	0
E4	0	0	1	-1	0	0	3	3	2	0	0
E5	-2	0	-2	-2	0	0	0	2	1	-2	0
E6	-3	0	-3	0	0	0	4	4	3	0	0
E7	0	2	-2	-1	0	1	3	3	3	0	0
E8	-3	0	-2	2	0	0	3	3	1	2	0
E9	-2	0	-2	-1	0	0	2	2	2	-1	0

Table 2.3

Legend

- T1 – Level of proactive enforcement by law enforcement
- T2 – Number of female officers
- T3 – Level of scrutiny of sworn personnel

Legend (continued)

- T4 – Number of civilian oversight agencies
- T5 – Number of officers who are able to afford living in the community where they work
- T6 – Number of departments that have community-based special enforcement programs
- T7 – Number of departments that utilize an intervention program that includes supervisory ranks
- T8 – Number of patrol cars with in-car video cameras
- T9 – Level of education attained by officers
- T10 – Number of police use of force cases
- T11 – Number of parolees released into the community
- E1 – U.S. Supreme Court overturns “Three Strikes” law
- E2 – High profile criminal misconduct by a police officer
- E3 – U.S. Supreme Court eliminates qualified immunity for police officers
- E4 – High profile, high technology crime committed by a police officer
- E5 – Large scale protest resulting in deaths due to police action
- E6 – U.S. Congress nationalizes police oversight
- E7 – Police officer convicted of raping a university student
- E8 – “Million Man March” in San Jose resulting from police misconduct
- E9 – High profile use of force at the U.S. border

An examination of Table 2.3 reveals five combinations of events/trends that resulted in an impact rating  $\geq \pm 4$ . The comments below reflect the panel’s discussion about each of the selected combinations:

- 1) E1 Supreme Court overturns three strikes law -5  
T-11 Number of parolees released into the community

If the high court were to overturn three strikes laws, there would be a large number of prisoners paroled into communities across America. Consequently, there could be a greater number of police contacts with known felons. This could result in a greater number of use force cases.

- 2) E3 Supreme Court eliminates qualified immunity for officers -5  
T1 Level of proactive enforcement by police officers

If the Supreme Court were to eliminate the qualified immunity currently enjoyed by officers, the panel predicted a significant drop in proactive police work, thereby causing a large increase in criminal activity.

- 3) E3 Supreme Court eliminates qualified immunity for officers -5  
T10 Number of police use of force cases

Similar to above, if the high court eliminated qualified immunity, the panel projected that officers would disengage to such a significant degree that the number of use of force cases would drop precipitously.

- 4) E6 Congress nationalizes police oversight 4  
T7 Number of departments that utilize an intervention program that includes supervisors

In this event/trend combination, the panel believed that if Congress nationalized the police oversight function, then there would be a large increase in the number of departments that utilize a supervisory intervention program. This would make implementation of such programs much easier to accomplish.

- 5) E6 Congress nationalizes police oversight 4  
T8 Number of patrol cars with in-car video cameras

Similar to above, if Congress nationalized police oversight, the panel felt that there would be an immediate increase in federal funds allocated to deploy more video cameras in patrol cars. The panel members indicated that this would also have a significant positive impact on the ability of law enforcement agencies to implement early intervention systems and other police accountability programs.

## Scenarios

One of the valuable techniques used to forecast alternative futures is a process known as scenario planning. This process involves creating various stories about the future, each with a different outcome. A strategic planning approach can then be undertaken to maximize the likelihood that the optimistic scenario is achieved and to minimize the possibility that the pessimistic scenario might occur.

Scenario writing is a creative way to envision what the future might look like depending on what actions (or inaction) is undertaken by key people who have influence over a given issue. It allows decision-makers to dream of the most desirable outcomes and then use the scenarios to work backward through time to identify the steps necessary to achieve the desired outcome. Conversely, by contemplating a highly undesirable scenario, it allows these same decision-makers to avoid policy steps that could lead to that result.

Below are three possible scenarios (pessimistic, normative, and optimistic) that could come to pass regarding the implementation of an early intervention system in a large metropolitan police department.

San Jose, California  
April 26, 2008

### Pessimistic Scenario

Waiting anxiously with his POA attorney, Officer Patino--a seven-year department veteran--sits outside the police chief's office just prior to his Skelly (pre-disciplinary) hearing. Patino is facing termination for a series of four misconduct charges including a high profile use of force case that was highlighted on "60 Minutes." Patino readily acknowledges that his aggressive behavior is a result of an anger management problem. It

is also not surprising that this same anger management problem has also contributed to his recent divorce.

Meanwhile, inside the chief's office, the chief, the assistant chief, and the Internal Affairs Unit commander are discussing how it came to pass that this once exemplary employee had fallen so far in the last year. They were also discussing the pending civil claims totaling fifteen million dollars that have been filed against the city as a result of Officer Patino's conduct—not to mention the tremendous negative press generated by the claims. To make matters worse, the local FBI Special Agent-in-Charge (SAC) called earlier today to tell the chief that the U.S. Justice Department Civil Rights Division had opened an investigation into Patino's latest use of force incident and that the "60 Minutes" piece has spawned new congressional legislation to nationalize police oversight.

"How did we not know this guy was imploding right in front of our eyes?" the chief wondered aloud. "Where was this guy's sergeant during the last twelve months; how could we let this guy augur into the ground without at least trying to help." The IA commander tells the chief, "Sgt. Johanson has been out on disability pending his retirement and we have been rotating different relief sergeants on Patino's team off and on for the past few months. Johanson wasn't even aware that there were three prior force complaints under investigation until he read it on the front page of the paper." The IA commander continued, "Ya know, chief, we thought that there might have been something going on with this guy, but when we brought it up with his chain of command, we were told that Patino was one of the most productive cops in patrol and that someone over there would have a talk with him. Now we find out he has been calling in sick one day a week and regularly shows up late for briefing. All the red flags were there, we just didn't put it together in time."

Now exasperated, the chief exclaims to the IA commander, “We have got to develop a process to identify these troubled officers before they go over the edge. We have got to create a mechanism to track at-risk behavior. I also want to see us implement a system whereby we hold supervisors accountable for the repeated misconduct of their subordinates.” Just then, the chief’s secretary interrupts him to advise that the city manager is on the phone. After finishing the call, the chief appears shaken and says to the assistant chief, “ I guess you better handle the hearing. I have to go meet with the city manager. I have a real bad feeling--I think I’m about to get fired.”

#### Normative Scenario

After receiving his third use of force complaint in as many months, Officer Patino gets a call to meet with his putative supervisor, Sgt. Johanson. The sergeant speaks to Patino in his well-practiced fatherly tone. He begins, “Young man, I know I haven’t been around too much lately, but I need to tell you that I am concerned about all these force complaints that you seem to be accumulating. I also need you to know that the lieutenant is upset with you because of all the paper work you are creating for him.” The sergeant lowers his voice slightly and says, “I have been in this business for almost thirty years and the last thing I want to deal with before I retire is a bunch of force complaints. Now, I’m not gonna mention this talk to anybody, but do us both a favor and just cool it for a while, ok?” Patino, tired from another sleepless night, stifles a yawn and says, “No problem Sarge, I think I’m gonna drive around with blinders over my eyes from now on.” Patino heads back out to his patrol car where he immediately notices a long faint scratch along the side of his marked car. It is clear to him that he cut the corner too tight when he parked the

car and sideswiped a metal pole. He feverishly works to rub out the scratch and returns to service without mentioning the accident.

With his most significant supervisory act of the month completed, Sgt. Johanson stops by the Watch Commander's office and tells the lieutenant, "Don't worry, the kid will be fine." The next day, Johanson goes back out on disability and two months later retires from the department, never having documented his talk with Officer Patino.

Two months later, Patino receives a fourth misconduct complaint and the Internal Affairs commander calls Patino's lieutenant to express concern. Patino is immediately called into the lieutenant's office. Patino tells the lieutenant about his marital problems, his binge drinking, his lack of sleep, and his fear of losing it when handling suspects on the street. The lieutenant immediately refers Patino to the City's Employee Assistance Program (EAP) and subsequently drafts a Performance Improvement Program that helps guide Patino back to his former position as a top performer.

### Optimistic Scenario

Officer Patino sits with his supervisor, Sgt. Johanson, in the office of the Bureau of Field Operations deputy chief. They are there to participate in a non-disciplinary intervention counseling session relating to three misconduct complaints that Patino has received in the past six months. Present with them in the room are the BFO deputy chief and the Internal Affairs Unit commander. After some brief introductory remarks by the IA commander, Sgt. Johanson thoughtfully describes how he and Patino have been working together for the past month to address several of Patino's performance issues. He reports that Patino is performing at or above standard in all performance areas. At the conclusion

of the session, the deputy chief compliments both of them for their efforts and excuses Patino. As he walks out, Patino stops out of earshot of the chief, turns to Johanson and says, “Hey Sarge—I really appreciate everything you have done for me during the past few months. I know I was spinning out of control and I didn’t know how to get help. That EAP counselor you sent me to has really helped me sort out a lot of my problems. I also liked your idea of assigning me a car with a video camera so I could see for myself how I was treating the public.” Sgt. Johanson acknowledges the comments, shakes Patino’s hand, and closes the door to resume the meeting.

Johanson looks at the deputy chief, shakes his head, and says, “Were it not for that Supervisor’s Intervention Program (SIP) session two months ago concerning his complaints, I probably never would have learned about all the heavy stuff going on in his life.” “He likely would have gotten himself fired,” the sergeant acknowledged. Johanson then realized that the SIP program had forced him to pay attention to his troops even though his mind was in “retirement mode.” It was clear to him that the department was holding him accountable for the conduct of his people. Beyond that, he knew he had helped his subordinate get the help he needed and had helped the department salvage a promising career.

### Summary

In this chapter, the Nominal Group Technique (NGT) was introduced as a futures forecasting method. The NGT panel identified a series of trends and events that may significantly impact the implementation of an early intervention system in a large municipal police agency. By utilizing a cross impact analysis and developing alternative

future scenarios, one can now design a strategic plan to achieve the most desired implementation outcome.

In the next chapter, the strategic planning process will be introduced and used to help create a plan to help create the most desired scenario or avoid the least desired outcome.

## CHAPTER III

### STRATEGIC PLANNING

#### Introduction

A strategic plan can be characterized as a structured approach to addressing an issue, problem, or area of concern. The primary purpose of developing a strategic plan is to create a roadmap that will lead an organization to a desired outcome. This can be accomplished by analyzing a series of trends and events that may have an influence on the desired outcome and then implementing organizational changes that will maximize the chances for attaining the optimal outcome, while minimizing the chances for an undesirable outcome.<sup>15</sup>

In the case of planning for the successful implementation of an early intervention system in a large municipal law enforcement agency, one can use the trends and events developed in the Nominal Group Technique process as well as through environmental scanning to develop a comprehensive strategic plan. For purposes of this project, the city of San Jose will be used as the case study model.

#### The City of San Jose

The city of San Jose (population 925,000) is the third largest city in California and the eleventh largest in the United States. As the self-proclaimed “Capital of Silicon Valley,” San Jose enjoys a mild year round climate and has a diverse, vibrant, and well-educated workforce. The city’s economy is heavily dependent on the high technology sector with a high number of white-collar hardware and software engineering jobs. The city is also home to the world headquarters for several multi-national corporations including Cisco Systems, eBay, and Adobe Systems.

The San Jose Police Department has 1403 sworn personnel who serve an approximately 185-square-mile-area, not including many small pockets of unincorporated areas in Santa Clara County that are surrounded on all sides by the city of San Jose. According to the U.S. Department of Justice, San Jose is the safest large city (over 500,000 population) in the United States<sup>16</sup> and has been so for the past ten years.

The police department generally enjoys strong community support and recently received a vote of confidence with the passage of \$170 million public safety bond measure.<sup>17</sup> This bond measure will provide funding for the construction of a new police substation in South San Jose that will effectively double the square footage of space available for police operations.

The San Jose Police Department currently utilizes a rudimentary early intervention program that is administered through the department's Internal Affairs Unit, a unit that reports directly to the Office of the Chief of Police. This early intervention model is formally known as the SJPD Intervention Counseling Program, and has been in existence for over twenty years. Although this program was once considered a cutting edge risk management program, time and recent research have shown that there are several other early intervention programs that would better serve the community.

### Vision Statement

One of the most important aspects of leading others to achieve a desired goal is providing a clear vision of desired outcome and showing all interested parties a path that will lead them to it. An important step in communicating such a vision is the development of a strong vision statement. An effective vision statement incorporates the organization's

values, goals, and objectives and charts a distinct path for all members to follow as they work together towards their desired future. An example of such a vision statement in the context of implementing an early intervention system in a police department might look like the following:

Our police department has a continuing obligation to seek to improve the quality of service that it provides to the community. One aspect of this obligation is to ensure that we hold all members accountable for acts of misconduct. We will take appropriate and timely disciplinary action when warranted, while at the same time protecting the due process rights of our employees. We also recognize that many acts of misconduct can be prevented if our organization takes steps to identify employees exhibiting at-risk behavior and offering them appropriate counseling and assistance. As such, we have committed to creating a comprehensive, non-disciplinary early intervention program with express intent of helping our employees overcome personal difficulties while at the same time seeking to prevent potential liability arising from acts of misconduct.

#### External Situation Analysis (STEEP)

Prior to implementing any significant change in an organization, it is extremely valuable to examine the external forces that are acting upon the organization so that one can anticipate potential sources of opposition or influence. One such method of analysis is known as the STEEP Model. The STEEP model provides a method to analyze a proposed change from a variety of perspectives that are external to the organization. These perspectives include (S) Social, (T) Technological, (E) Economic, (E) Environmental and (P) Political.<sup>18</sup> In the case of implementing an early intervention system in a large law enforcement agency, the STEEP model is very useful in identifying those forces that may positively or negatively influence a proposed strategy. The results of a STEEP analysis in this context would include:

## Social

- Trust and confidence in law enforcement

One of the primary factors that helps determine where people want to live and do business is whether they believe that the community is considered safe. A community's sense of safety is directly tied to the level of trust and confidence accorded the police department and its officers. Effective accountability systems can strengthen trust and confidence.

- Newer officers consider law enforcement a job, not a career

Generation X and Generation Y officers tend to consider public service generally (and police work in particular) as just a job rather than a career.

- Fewer officers have prior military experience

Many of the new officers have not served in the military and are much more likely to question direction given by the chain of command.

- Significantly greater diversity in the community and in the department

In the past ten years, many large urban communities have seen a large increase in their immigrant populations. Additionally, departments have responded by recruiting and promoting people that better reflect the make-up of their community.

## Technological

- Better and cheaper technology to track officer records

New and improved technology (hardware/software) has been created to track officers and to better hold them accountable for their conduct.

- More sophisticated vehicle monitoring systems

Departments now have the capability to track patrol vehicle operation in real time using GPS transponders.

- Increase in the use and quality of video cameras by police/community

An increasing number of police vehicles have been equipped with in-car video cameras. Additionally, many people in the community now routinely videotape police activity in an effort to document alleged police misconduct.

#### Economic

- A declining economy can lead to higher crime rates, including violent crime

An increase in crime often results in more police contacts. With an increase in contacts, one can anticipate that the number of cases of alleged police misconduct will also increase.

- Municipal budgets have been reduced sharply

For the first time in recent memory, police officers have actually been laid off due to reduced local government revenues. Consequently, officers are extremely sensitive to implementing new programs that potentially could divert funding from staff salaries.

- High profile police misconduct cases costing cities millions of dollars in settlements

Major cities including Los Angeles, Washington D.C., and New York have all been paying out multi-million dollar settlements as a result of alleged police misconduct.<sup>19</sup>

#### Environmental

- Increase in population

As the amount and density of the population increases, there will be an increase in the number of calls for service. As such, there are likely to be more negative encounters with law enforcement resulting in allegations of misconduct.

#### Political

- Elected officials are holding police executives accountable

In the past five years, elected officials from cities coast to coast have authorized payments totaling tens of millions of taxpayer dollars resulting from civil settlements arising from police misconduct. The era of mayors and city council members leaving police misconduct issues to police chiefs is over.

#### Internal Organization Analysis (SWOT)

In every organization, there exists a prevailing and distinct organizational culture. Customs and traditions, both formal and informal, serve as powerful forces that must be carefully considered before an agency executive can successfully implement significant change. Often times, it is extremely difficult for those who have worked in a given

organizational culture to objectively evaluate the need for significant change. However, once the need for change is recognized, it is important to evaluate those forces and people in the organization that will likely support the change and those that will likely oppose it.

One method of analyzing a proposed organizational change is what is referred to as a SWOT analysis. The SWOT analysis identifies the strengths, weaknesses, opportunity and threats that may arise from a proposed change. In the context of a proposal to implement a comprehensive early intervention program in the San Jose Police Department, the following SWOT analysis is helpful:

#### Strengths

- Strong working relationship between department administration and the union
- Existing early intervention program is well understood by line personnel
- Police administration enjoys significant autonomy in disciplinary matters
- Department's disciplinary process is well respected by all parties
- Department managers are very experienced in the disciplinary process

#### Weaknesses

- The department is facing significant budget cuts in the next three fiscal years.
- The existing early intervention program software needs significant upgrades.
- The union will likely object to additional scrutiny that comes with an enhancement to the existing intervention program.

- General perception by officers that the department already does a good job in addressing misconduct and does not need any changes to the early intervention program
- Supervisors will likely resist new accountability measures unless carefully implemented.
- Department management and officers alike will be concerned with the potential for unauthorized access of confidential material for an improper purpose.

#### Opportunities

- There exists a good working relationship with the Office of the Independent Police Auditor.
- There exists a strong link between the department and the city's employee assistance program (EAP) provider.
- The department generally enjoys a good reputation in the community concerning its ability to properly discipline its officers.

#### Threats

- The city attorney's office may object to creating a new discoverable database that contains many types of potentially damaging information about officer conduct. The fear is offset, however, by the department's ability to proactively

use the database to identify at-risk officers and take steps to minimize the risk exposure of the city.

- Some civil rights organizations may object to an enhanced version of the existing early intervention program because they believe that it does not track enough data concerning police misconduct.

### Stakeholder Identification

One of the critical tasks leading to the successful implementation of any plan is the identification of key stakeholders. Stakeholders are those groups, individuals, or organizations that will be significantly impacted by the planned change or those, though not impacted, who can significantly impact the implementation of the plan. Stakeholders are most often found within the affected organization, however those responsible for implementation must look beyond those internal stakeholders to see if there are those outside the organization who should be considered key stakeholders.

It is also imperative that those tasked with program implementation not only know who the stakeholders are, but should also understand the relationships that currently exist between the stakeholders. Although support from each of the stakeholders is certainly desirable, it may be enough that, because of certain inter-stakeholder relationships, success can be achieved by merely having some stakeholders support the change while others may simply choose not to oppose it. An example of this in the early intervention program context might be where the local police officers association (POA) decides not to oppose the chief's plan to implement an early intervention program as part of its broader strategy to win a pay raise in collective bargaining.

The following are several key stakeholders who would have a significant impact on the implementation of an early intervention system in a large police agency and a brief list of interests and/or concerns associated with each of them:

POA — Most often the collective bargaining unit that represents officers in both wage negotiations and disciplinary matters

- Interest in the development of objectively reasonable threshold criteria
- Concern about possible decline in officer morale resulting from EIS
- Interest in ensuring fair treatment for its membership
- Concern about EIS being used as a de facto disciplinary tool

Supervisors — First-line supervisors, most often sergeants or corporals

- Concern about increased scrutiny and accountability for assigned personnel
- Interest in addressing their employees' at-risk behavior at an earlier stage
- Interest in documenting their efforts to counsel and assist employees
- Interest in becoming better trainers and more effective supervisors
- Interest in being responsible for on-duty conduct of their assigned personnel

Community — Neighborhood groups, civil rights organizations, activist groups

- Concern about police misconduct and corruption
- Concern about police executives failing to hold officers accountable
- Concern about multimillion dollar payouts resulting from officer misconduct
- Interest in monitoring police accountability efforts

- Interest in supporting the majority of officers who are trying to protect them

Internal Affairs — Unit responsible for police accountability function and systems

- Interest in managing the implementation of the EIS function
- Interest in ensuring that the Office of the Chief is informed of on-going issues
- Interest in maintaining records relating to misconduct
- Interest in maintaining a liaison role with other government agencies involved in misconduct investigations (District Attorney, Police Auditor, et al.)
- Interest in maintaining a liaison role with police union on discipline issues
- Interest in maintaining a liaison role with the independent police auditor

City Information Technology Department — Unit responsible for use of technology

- Interest in the identification and/or development of Early Intervention (EI) program software
- Interest in the purchasing/acquisition process for all necessary technology
- Concern about maintaining all hardware and software
- Interest in maintaining a liaison role with all system users
- Concern about the need for identifying/implementing programming changes

City Attorney — Represents the municipality in negotiations and litigation

- Interest in representing the police department in civil litigation
- Interest in advising city council and police chief on legal issues
- Concern about impacts associated with implementing EIS database

- Interest in approving (as to form) contracts for technology acquisition
- Concern about managing civil discovery of EI program information

Mayor/City Council — Chief policy makers for the municipal corporation

- Interest in providing policy direction to city manager and police chief on police accountability issues
- Concern about provides sufficient financial resources for EI program
- Interest in ensuring accountability of city manager and police chief
- Interest in serving as a forum for community feedback on police issues

Another important aspect of stakeholder identification is the capacity to recognize and handle the ever-present “Snail Darter”<sup>20</sup> that invariably finds its way into any project. The term refers to an unanticipated force or set of circumstances that disrupts an otherwise well-thought-out implementation plan. The best way to deal with the unpredictable is to create a predictable process by which to resolve unanticipated impediments. To do this, the implementation team must be granted the authority to make program changes after consulting with the stakeholders.<sup>21</sup>

Development of Alternative Strategies

As with any undertaking, there may be more than one way to accomplish a desired outcome. The next step in the strategic planning process is the development of several alternative strategies that could be employed to reach the ultimate goal of implementing an

early intervention system. From this list, a preferred strategy will emerge as the best option. For purposes of this project, four alternative strategies have been developed. They are:

#### Strategy One—Ad Hoc Supervision Model

The first alternative is to utilize an ad hoc tracking system whereby individual sergeants are responsible for tracking any at-risk behavior of their subordinates. In the short term, this option may appear to have the lowest financial cost as the administrative overhead associated with a formal early intervention program can be avoided. Unfortunately, this represents a very shortsighted approach as the potential costs associated with a single civil damage award or settlement will likely be much greater than the long-term costs to maintain the early intervention program.

This approach is highly undesirable for a major city police department as there are too many supervisors, each with a different level of expertise and interest, to effectively identify, address, and track the problematic behavior of all the employees.

#### Strategy Two—Basic Complaint-Based Intervention Program

The San Jose Police Department currently maintains an early intervention system that uses as its triggering mechanism only the number of Internal Affairs complaints received during a specific time period. A sworn employee is referred for “Intervention Counseling” if he or she receives three or more complaints during any continuous twelve-month period. At the intervention session, the subject officer, along with his supervisor, meets with the Internal Affairs Unit commander and the deputy chief of the officer’s assigned bureau.<sup>22</sup>

The session is not disciplinary in nature and no questions concerning the involved cases are asked. Rather, the session is designed to explore the possible reasons why the subject officer has received such a high number of complaints compared to his peers and to discuss strategies to avoid generating such a statistically high number of complaints.

Although this system has been in place for over 20 years and has served the department well, it has significant limitations. Because the system is strictly complaint-driven, the database lacks the capacity to capture a variety of other at-risk behaviors. These other problematic behaviors often serve as a signal that something is amiss in the employee's work or personal life.

In 2001, the department added a new feature to its accountability protocol with the implementation of the Supervisors Intervention Program (SIP). This program was designed to take early identification and intervention to the next level of accountability. The idea for this enhancement was conceived by then San Jose Police Chief William M. Lansdowne in response to the Oakland PD "Riders" scandal. In that case, four officers were prosecuted for corruption-related offenses including falsifying police reports and planting evidence.<sup>23</sup> During the investigation of the case, it became apparent the officers' supervisor was aware of at least some of the alleged misconduct yet failed to properly investigate the allegations or otherwise act on the information.

In the SIP, supervisors with subordinates that receive a combined total of three or more misconduct complaints during a six-month period are automatically referred to a meeting with their chain of command up to and including the deputy chief of the supervisor's assigned bureau. This program, similar to the Intervention Counseling Program, uses only the number of misconduct complaints as a basis for the threshold for

referring. The SIP program has improved supervisory accountability; however, ultimately it suffers from the same limitation as the Intervention Counseling program as it is strictly complaint-driven.

In light of this limitation, the Intervention Counseling program needs to evolve from its current design. The failure to do so will likely lead to the following scenario: There will be a high profile misconduct case where it will be shown that the subject officer will have exhibited several documented at-risk behaviors, none of which became the subject of a misconduct complaint. As such, the involved officer would not have met the criteria for early intervention counseling and thus would not necessarily have come to the attention of department management. This will also likely result in the department facing a negligence claim for failing to adequately supervise the subject employee and the allegation that the department “knew or should know” that the officer was likely to engage in alleged misconduct. Finally, the department will likely lose a well-trained employee to termination or resignation, and it is quite possible that if identified sooner, the employee could have been referred to appropriate counseling and could have salvaged his career.

### Strategy Three—A Personnel Performance Database Model

The third alternative strategy is the development of personnel performance database that includes all of the data points featured in the second alternative as well as numerous other pieces of management data.<sup>24</sup> This type of program includes data points such as performance appraisals, disciplinary actions, commendations, sick leave usage, number of arrests and citations as well as many other productivity measures.

The advantage of using this type of program is that management gets a complete picture of officer performance and productivity. Such measures can also be tracked over time to detect deviations from the officer's historical norms as well as patterns of at-risk conduct. On the negative side, these types of comprehensive programs are extremely expensive to develop, implement and most importantly, to maintain. Several departments, including the Los Angeles Police Department (LAPD), have spent millions of dollars developing such sophisticated programs and are still reporting significant problems in the implementation of such programs.<sup>25</sup>

The issue and concern about file maintenance cannot be understated. In February, 2003, Merrick Bobb, special counsel assigned to monitor the Los Angeles County Sheriffs' Department (LASD), reported that the once-vaunted LASD Personnel Performance Index (PPI) had been underutilized and neglected for so long that its value as an early intervention tool is in question.<sup>26</sup> Bobb also criticized the LASD for its failure to commit sufficient resources or management will to ensure the proper use of the PPI. He uses the following analogy to describe the current state of the PPI:

The LASD currently treats the PPI like a collectible automobile: It is put on display from time to time to demonstrate to the outside world that the LASD has the Rolls Royce of risk management software and procedures. And indeed it is the Rolls. But when the odometer is checked, it is apparent that it has hardly ever been taken out of the garage. When the maintenance records are reviewed, one learns that it cannot perform to manufacturer's specifications because of neglect. And even when it has actually been taken out for a spin, few of the people who drive it know how to get it to go more than 35 mph.<sup>27</sup>

The experience of those who have implemented such comprehensive intervention programs suggests that they require significant investments in staff, time, and money to

develop. Furthermore, once developed, these systems are extremely labor-intensive to maintain properly and the failure to do so will render the system unreliable.

#### Strategy Four—Intermediate Option: Force/Complaints/Accidents/Sick Leave

The fourth alternative strategy involves the modification of the SJPD Intervention Counseling program to include referral criteria other than just misconduct complaints. These additional criteria could include any of the following: use of force incidents, on-duty vehicle collisions, being named as a defendant in civil litigation against the city, tardiness, and sick leave usage. The relevant question then becomes which data points to track and how many of each should be required to make a program referral.

This strategy is attractive because it uses as its foundation the existing database that has been in existence for many years. This archive of historical data can be extremely helpful and no data need be re-entered into the system.

#### Selection of Preferred Strategy

It is clear that use of early intervention systems will increasingly become an important part of any large police department's risk management program. As such, the preferred alternative must, at a minimum, perform at least at the level of the complaint-based early intervention system. With this in mind, the logical and most cost-effective alternative would be to enhance the existing database to include several more data, but stop short of creating a new comprehensive database. Thus, Strategy Four, an enhanced version of the existing SJPD Intervention Counseling database, is the preferred strategy.

The Enhanced Intervention Counseling Program (EICP) takes the existing intervention counseling program to the next level of sophistication. This new program

would retain the existing software database of misconduct complaints and add to it a number of new threshold criteria. Among these new criteria would be: On-duty vehicle accidents, sick leave usage, any rating below a “meets standard” on an performance appraisal, being named as a defendant in civil suit resulting from on-duty actions, all documented uses of force, loss or damage of department equipment, and any on-duty injuries.<sup>28</sup>

### Threshold Criteria

The most challenging task in creating any early intervention program is the development of the threshold criteria used to determine which officers get referred into the program. Specifically, the question of how many and what combination of the data points should trigger an intervention with the involved officer needs to be determined.

The most effective method of identifying the appropriate threshold criteria is to convene a group of representatives from all of the stakeholder groups and discuss at what level should the department intervene with an employee exhibiting at-risk behavior. Ultimately, the agency executive should determine the threshold criteria, however the stakeholder discussions will be extremely helpful to the chief when balancing the needs of the employee with the needs of the organization.

### Developing a Collective Vision

A collective vision is one that all stakeholders can understand, articulate, and most importantly embrace. Although the chief executive of any organization will always have his or her own idea about where their organization should go, it is the effective and

collaborative communication of that vision that will often determine whether the vision becomes the reality. The most effective leaders take great care in sharing their vision with others in such a manner that what may appear at the beginning as the leader's vision transforms it into a collective vision.

### Implementation

Once all stakeholders have been identified and consulted and a preferred alternative plan chosen, a detailed implementation plan must be formulated to increase the chances of successful implementation. It is a well-known axiom that even the best ideas can fail if insufficient resources are devoted to preparing for implementation.

Agency executives interested in implementing the preferred model of an early intervention system should form three working groups: one group tasked with developing the threshold criteria used for program referrals, another group tasked with the technology issues, and the last tasked with handling the administrative issues including policy and finance.

Once each of these work groups has developed implementation plans for its section of the early warning program, they should convene as a committee of the whole with the Internal Affairs Commander sitting as chairperson. This group should prepare and present a detailed program plan that includes a multi-media information campaign and as well as provide for a test period to work through unforeseen issues. The police chief should then implement the program and ensure that appropriate mechanisms are in place to evaluate the program and solicit feedback from all the stakeholders.

### Monitoring and Feedback

As with any new program, it is important to provide a mechanism to monitor its effectiveness and to offer a vehicle for the stakeholders to provide feedback to help identify the strengths and weaknesses of the program. It is advisable to begin the program implementation with a test period of up to one year to troubleshoot all aspects of the new program. Among the methods used to monitor program effectiveness include tracking the complaint histories of officers referred into the program to see if the counseling sessions have influenced their behavior. Additional feedback can be obtained by distributing confidential surveys to all personnel who have been referred into the program to assess their perceptions about how they were treated during the process.

The department should solicit constructive criticism from any credible source and act upon it as is necessary to achieve the desired goal of identifying and addressing at-risk behavior. This aspect of implementation is important as it provides the stakeholders on going input into the operation of the early intervention program.

### Summary

In this chapter, a structured approach was introduced to prepare the organization for the implementation of an enhanced early intervention program. The approach begins with both an internal and external analysis of the organization and continued with the identification of the stakeholders and an analysis of their interests. Finally, four alternative strategies were introduced and evaluated and a preferred alternative was identified.

The next chapter will feature a discussion on the steps necessary to develop and execute a transition management strategy that will allow for the successful introduction of an early intervention program.

## CHAPTER IV

### TRANSITION MANAGEMENT

#### Introduction

In addition to the need for a well-developed implementation plan, it is also critical to develop a transition management strategy when implementing a new program. New programs often have extended time horizons and frequently see several key players drop in and out during the course of the implementation process. It is important to gauge the commitment of each of the stakeholders and their representatives as one moves along the implementation timeline.

The hard reality is that the average tenure of a major city police chief is 3-4 years.<sup>29</sup> It would not be unheard of for a leadership change to occur prior to a proposed program becoming operational. To plan for this contingency, it is extremely useful for the transition management team to have a plan to bring new leadership up to speed and continue with the program implementation.

In this chapter, the use of a commitment planning chart helps assess the readiness of the various stakeholders and to ready the organization for change.

#### Commitment Planning

A commitment plan can be defined as a strategy consisting of a series of specific action steps designed to obtain the backing of the key stakeholders necessary for a successful implementation. Each of the stakeholders brings to the implementation process a level of readiness to embrace the proposed change. However, there are certain

stakeholders who are essential for the project to be successful. These stakeholders are referred to as critical mass members. Table 4.1 depicts the existing level of commitment exhibited by each of the critical mass members as well as their desired level of ultimate commitment necessary for successful implementation of an early intervention program. An X depicts their current level of commitment and an O represents the ultimate desired commitment.

#### EXISTING COMMITMENT TO STRATEGIC PLAN

Critical Mass Members	Block the Change	Let Change Happen	Help Change Happen	Make Change Happen
POA	X→		O	
Supervisors		X→		O
Community		XO		
Internal Affairs			X→	O
City IT Dept.			X→	O
City Attorney		X→	O	
City Council		XO		

Table 4.1

#### Critical Mass Evaluation

Critical mass can be characterized as the requisite combination of individuals or groups, acting in concert, that are necessary to make or allow others to make a desired change.<sup>30</sup> Although not all stakeholders may be necessary to achieve a critical mass, it is clear that without key players either supporting the change or at the least, allowing it to occur, the change would not occur. In the case of an early intervention program, the critical mass combination includes the city Information Technology (IT) Department, the Internal Affairs commander, and the department supervisors all working affirmatively to implement the program and then having the POA support (or at least not opposing) its implementation.

### Transition Structure

Whoever is tasked with leading the transition effort will play a pivotal role in the success or failure of the early intervention program. Consequently, it is important that the person selected for this role should be someone who has unquestioned integrity and holds the trust of all the stakeholders. The project leader must also be thoroughly familiar with the design of the early intervention process, be well versed in the disciplinary process, and have exceptional interpersonal skills. The logical person likely to possess this list of qualities would be the Internal Affairs (IA) Unit commander.

The IA commander is the administration's point person for the disciplinary process and serves as the custodial manager of the disciplinary files. He also serves as a subject matter expert for both the administration and for the employee groups.

The president and board members of the POA should also play an active role in informing the association membership about the purpose of the program, the threshold criteria for referral, and aid referred members in preparing for their intervention sessions.

### Responsibility Charting

A responsibility chart serves to readily identify the responsibilities of all parties involved in the transition to a newly developed early intervention system. The use of such a chart can serve to minimize conflict between the participants as it provides a quick visual reference and clarifies expectations about everyone's role in the project. The responsibility chart depicts which participants have the responsibility to implement the new program (although not necessarily the authority to make it happen) as well as those participants who have approval rights, supporting roles, or just need to be kept informed as to the progress of

the program. Table 4.2 represents a responsibility chart for the transition to a new early intervention system.

### RESPONSIBILITY CHART

Decisions	Participants							
	POA	Supervisors	Com- munity	IA	IT Dept.	City Atty.	City Council	Chief
Set Initial Planning Meeting	S	S	I	R	S	S	I	I
Select Project Manager	S	S	I	R	A	S	I	A
Select Transition team	S	S	I	R	S	S	I	I
Establish Goals and Objectives	S	A	I	R	I	S	I	A
Develop Policy Guidelines	S	S	I	R	I	S	I	A
Develop Threshold Criteria for Intervention	S	A	I	R	I	S	I	I
Develop Evaluation Criteria	A	A	I	R	S	S	I	I
Set Implementation Date	S	S	I	R	S	S	I	I
Roll Out Program to Employees	S	S	I	R	S	S	I	I
Set Evaluation Date	S	S	I	R	S	S	I	I
R = Responsibility (not necessarily authority) A = Approval (right to vote)				S = Support (put resources towards) I = Inform (to be consulted before action)				

Table 4.2

### Summary

This chapter focused on the management of those individuals, groups and institutions that are critical in the process of implementing an early intervention system. In addition, the commitment levels and responsibilities of all parties were charted to clarify performance expectations.

In the final chapter, several conclusions are drawn from the available research and specific recommendations are offered for those interested in implementing an early intervention program in a large police department.

CHAPTER V  
CONCLUSIONS AND RECOMMENDATIONS

Conclusions

It is clear that early intervention programs are fast becoming an essential part of any large law enforcement agency's risk management protocols. The research suggests that the implementation of comprehensive early intervention systems in large agencies can significantly reduce the number of citizen complaints and other indicators of at-risk behavior by officers. Additionally, it has been found that early intervention systems have a positive impact on supervisory performance as such programs flag potential problems so that they may be addressed at an earlier stage. What is less clear and deserves careful study by those interested in using such programs are the significant implications associated with implementing such programs. Based on the latest research in the field and on the first-hand experience of those agencies that use such systems, there are many pitfalls that await even the most savvy police administrator who seeks to introduce an early intervention program. High costs (both developmental and operational), system maintenance, data integrity, union objections, difficulty in developing threshold criteria, and adverse impacts on officer morale are all critical issues that need to be addressed prior to implementing such programs.

Among the early intervention systems currently in use, the type that seems to be the most cost-effective and easiest to maintain are those that feature eight to ten data points and are administered in the Internal Affairs Unit. With each passing year, more and more

software vendors are developing and marketing off the shelf programs that can be customized to track a variety of data points as determined by the purchasing agency.

It is also likely that the California legislature will soon act to impose a requirement that agencies enact such programs (Assembly Bill 1119 –Wesson). With this in mind, it would be advantageous for agency executives to develop their own early intervention systems that fit their own needs rather than to have such a program imposed on them from Sacramento.

### Recommendations

Based upon the experience of those who have implemented similar programs, it is recommended that:

- 1) For those law enforcement agencies that have not yet taken steps to implement an early intervention program, the chief executive should immediately convene a working group tasked with researching which model would work best for their jurisdiction. The chief executives should then reinforce the need for such programs into their speaking events and during their daily discussions with subordinate officers.
- 2) Once the appropriate early intervention model is chosen, the chief executive should designate the commander of Internal Affairs as the program coordinator and direct this person to convene a meeting of the key stakeholders.
- 3) The IA commander should seek consensus from the stakeholders on what the appropriate threshold criteria should be for referral to the program.

- 4) A detailed implementation plan, including a multi-media marketing strategy should be presented to the chief executive for approval.
- 5) Once approved, the program should be implemented for a one-year test period. At the conclusion of the test period, the IA commander should seek feedback from the stakeholders and recommend appropriate changes, if any, to the chief executive.
- 6) The Internal Affairs Unit should monitor the complaint histories of all personnel who have been referred into the program for counseling.
- 7) The revised program should be implemented on a permanent basis.

What will be the implications of implementing an enhanced effective early intervention program in a large urban law enforcement agency by 2008? There are indeed many, but it is clear that the most important implication for implementing such a program will be to allow future police executives to track the at-risk behavior of their employees.

The other key implications of implementing such an early intervention program include improving the capacity of departments to intervene with at-risk employees at an earlier stage than with a more remedial EI model and thus perhaps salvage the careers of otherwise productive employees. Finally, early intervention programs provide community residents with the peace of mind that proper safeguards are in place to protect them from preventable police misconduct.

APPENDIX A

LIST OF NOMINAL GROUP TECHNIQUE PANEL PARTICIPANTS

Mr. Patrick Boyd	Vice President, San Jose POA POST Commissioner (2002-2003)
Ms. Teresa Guerrero-Daley	Independent Police Auditor, City of San Jose Nationally recognized expert on police oversight
Mr. Ashu Kalra	Deputy Public Defender, Santa Clara County Law Professor/ Expert on civil rights law
Ms. Kimberly Connors	Deputy District Attorney, Santa Clara County Former White House Fellow, HUD
Mr. Moises Reyes	Sergeant, Special Operations Division, SJPD Former Internal Affairs Commander (Acting)
Ms. Margie Edillo-Brown	Lieutenant, San Jose Police Department Former Internal Affairs Investigator Expert on Organizational Development

## APPENDIX B

### LIST OF TRENDS

1. Level of surveillance of the public by the government
2. Level of perception of racial profiling
3. Level of searches of vehicles
4. Level of drug usage by law enforcement personnel of their families
5. Level of proactive enforcement by police
6. Number of female officers
7. Level of scrutiny of sworn personnel
8. Number of civilian oversight agencies
9. Level of correlation between the experience of the supervisor and number of complaints
10. Number of officers with prior military experience
11. Number of uses of less lethal weapons
12. Number of officers with military combat experience
13. Number of officers able to afford to live within the community where they work
14. Number of applicants that are career oriented
15. Number of specialized assignments held prior to becoming an FTO
16. Level of commitment held by younger officers
17. Number of departments that would move intervention programs outside of Internal Affairs
18. Number of community policing substations
19. Number of officers that are foreign born
20. Number of departments that have community based specialized enforcement efforts
21. Number of self-initiated events as compared to the number of complaints
22. Level of dependence on office automation
23. Level of financial independence by police recruits
24. Number of minority officers
25. Level of perception of law enforcement as impacted by television shows
26. Number of departments that utilize an intervention program that incorporates supervisory ranks
27. Number of supervisors that fail probation
28. Level of crimes as a result of economic changes
29. Number of misconduct complaints where discipline is imposed
30. Number of patrol vehicles with video surveillance equipment
31. Number of patrol vehicles with Automatic Vehicle Locator
32. Number of self-initiated drug arrests
33. Level of education held by sworn personnel
34. Level of training for interpersonal skills
35. Number of officer involved shootings
36. Number of uses of force
37. Number of trauma centers
38. Number of parolees released into the community
39. Number of officers injured
40. Number of departments that have an Intervention Counseling Program

## APPENDIX C

### LIST OF EVENTS

1. US Supreme Court overturns Three Strikes
2. High profile criminal misconduct by police officer
3. Major terrorist attack in the US
4. War against Iraq
5. Court eliminates qualified immunity
6. Out of policy shooting
7. High tech crime committed by police officer
8. High profile use of force at the border
9. Supreme Court throws out Miranda
10. Large scale protest results in twenty-five deaths
11. Congress nationalizes police oversight
12. Nationalization of law enforcement
13. Privatization of law enforcement
14. Police officer accused of raping a student
15. Police departments ban all pursuits
16. Copycat sniper terrorizes metropolitan area
17. Hacker shuts down police communications for three days
18. State special prosecutor appointed to prosecute police misconduct
19. Columbine-type shooting results in nine deaths
20. Tracking of religious affiliation is standardized amongst law enforcement
21. Water supply tainted by terrorist organization
22. 8.0 earthquake in California kills 1000
23. Million Man March in San Jose regarding police misconduct
24. Police officers restricted to 40 hours off due to budget cuts and national security
25. 40,000 sports fans destroy/vandalize numerous businesses resulting in \$5 million damage
26. California mandates drug treatment for all drug related crimes
27. New York City mandates GPS and mini-cameras on officers at all times
28. LA merges police and fire
29. July 4 Al-Queda blow up Golden Gate Bridge

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## NOTES

<sup>1</sup> “Kansas City Police Go After Their ‘Bad Boys,’” *New York Times*, 10 September 1991; and “Waves of Abuse Laid to a Few Officers,” *Boston Globe*, 4 October 1992.

<sup>2</sup> Herman Goldstein, *Policing a Free Society*, Ballinger Press, 1977, p.171.

<sup>3</sup> As the scholarly literature treats them as synonymous, “early intervention” and “early warning” systems are used interchangeably throughout this paper.

<sup>4</sup> Samuel Walker, *Police Accountability: The Role of Citizen Oversight*, p. 172, Belmont, CA: Wadsworth Thompson, 2001.

<sup>5</sup> U.S. Department of Justice, Office of Justice Programs, National Institute of Justice. *Early Warning Systems: Responding to the Problem Police Officer*, pp.1-2, Samuel Walker, Geoffrey P. Alpert, and Dennis Kenney, from the series National Institute of Justice Research in Brief, July 2001.

<sup>6</sup> U.S. Department of Justice, *Attorney General’s Conference: Strengthening Police-Community Relationships: Summary Report*, Appendix pp. 4-5, Washington, DC, June 1999

<sup>7</sup> AB 1119 (Wesson) as amended 6/27/03.

<sup>8</sup> U.S. Department of Justice, Office of Justice Programs, National Institute of Justice. *Early Warning Systems: Responding to the Problem Police Officer*, pp. 1-2, Samuel Walker, Geoffrey P. Alpert, and Dennis Kenney, from the series National Institute of Justice Research in Brief, July 2001.

<sup>9</sup> *Ibid*, p.4.

<sup>10</sup> “Kilpatrick Says Reforms Can Be Model for Detroit.” *Detroit Free Press*, 1 December, 2001.

<sup>11</sup> Command College lecture by Edward Barlow, May 13, 2002.

<sup>12</sup> The NGT panel convened on February 12, 2003.

<sup>13</sup> In March 2003, the Supreme Court ruled that California’s “three strikes” law was constitutional. *Ewing v. California* 01-6978, *Lockyer v. Andrade* 01-1127.

<sup>14</sup> Command College lecture by Alicia Powers, July 10, 2003.

<sup>15</sup> Command College lecture by Tom Esensten, March 10, 2003.

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<sup>16</sup> City Crime Rankings: Crime in Metropolitan America, 9<sup>th</sup> Edition, Morgan Quitno Press, October 2002 (update).

<sup>17</sup> Measure O, March 2002 San Jose citywide election

<sup>18</sup> Command College handout on STEEP Model given by Tom Esensten, March 10, 2003.

<sup>19</sup> Jean Guccione, "Rampart Task Force Urges Tracking of Officer Conduct" *Los Angeles Times*, 22 April 2003 and Schmitt, Ben. "Detroit Police Need Database Tracker to ID Rouge Cops," *Detroit Free Press*, 12 March 2003.

<sup>20</sup> The Snail Darter is a small species of fish that was once considered an "endangered" species under the federal Endangered Species Act. Its discovery in the Little Tennessee River in 1973 led to the lengthy delay in construction of the Tellico Dam. The term Snaildarter in this context refers to an unanticipated force or set of circumstances that disrupts an otherwise well-thought-out implementation plan.

<sup>21</sup> Although the stakeholders must be consulted prior to a program change, their approval is not required.

<sup>22</sup> As a practical matter, only the Deputy Chief of the Bureau of Field Operations (BFO) is involved in the Intervention Counseling and Supervisor Intervention Programs as the vast majority of misconduct complaints arise with personnel assigned to BFO.

<sup>23</sup> William M. Lansdowne is currently Chief of the San Diego Police Department

<sup>24</sup> Some early intervention programs track as many as 50 data points

<sup>25</sup> Michael Cherkasky, "The Eighth Report of The Independent Police Monitor for the Los Angeles Police Department," pp. 6-8, Kroll Associates, August 2003.

<sup>26</sup> "Sheriff's Dept.'s Use of Database Criticized." *Los Angeles Times*, 19 February 2003.

<sup>27</sup> Merrick Bobb, "16<sup>th</sup> Semiannual Report of the Los Angeles Sheriffs Department Special Counsel," pp. 58-59, Police Assessment Resource Center, Los Angeles, February 2003.

<sup>28</sup> See Early Warning System: Concepts and Issues Paper, IACP National Law Enforcement Policy Center, pp. 2-3, October 2002.

<sup>29</sup> Police Executive Research Forum (PERF) survey of police chief compensation, 1998.

<sup>30</sup> Command College handout on Critical Mass, Tom Esensten, March 10, 2003.

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