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THE 1990 AMERICANS WITH DISABILITIES ACT

CHALLENGE TO INCLUDE THE DISABLED IN THE POLICE WORK FORCE

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by
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CALIFORNIA PEACE OFFICER STANDARDS AND TRAINING

COMMAND COLLEGE
Class 16

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

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

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

The views and conclusions expressed in 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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INTRODUCTION

Law enforcement executives have devoted considerable time and energy, over the last 20 years, towards complying with state and federal legislation related directly to employment practices. Some of the most confusing statutes and regulations have resulted from governmental attempts to clarify the rights and opportunities available to members of newly created "protected classes" to compete for employment positions as sworn police officers. Police executives have struggled with requirements to balance policies and procedures, to avoid employment discrimination, with their desire to provide top quality police services to the community.

On July 26, 1990, President Bush signed the **Americans With Disabilities Act** (ADA) into law. Its stated purpose is to provide qualified individuals, with disabilities, equal employment opportunities and equal access to the private and public employment sectors. It is intended to "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities."¹ The act directed the Equal Employment Opportunity Commission (EEOC) to issue final regulations implementing the employment title (Title I) by July 26, 1991. The EEOC issued a technical assistance manual in January of 1992.² The **ADA** became effective for local police departments on January 26, 1992.³

The ADA may well be the most important piece of legislation affecting law enforcement since the passage of the Civil Rights Act of 1964. Initial literature searches and discussions with informed police executives established that the Act now protects all persons who can perform the "essential functions" of a job, with or without reasonable employer accommodations. It became clear that the ADA will significantly affect the ways that police agencies recruit, select, promote, and manage all employees, including sworn officers.

A tremendous amount of information, including written directives, training procedures, legal advice, and reference articles have begun to appear as all employers, including law enforcement agencies, scramble to deal with the impact of the ADA. The ADA is an extremely lengthy and complicated piece of legislation. The enforcement guidelines issued by the EEOC have created as many questions as answers. The specialized requirements and qualifications of law enforcement employment are bound to make compliance by police agencies very difficult, at best.

The California Peace Officer Standards and Training (POST) Command College, Independent Study Project, provided an opportunity to scan the literature and reference material relevant to the ADA to determine whether the Act was likely to present future issues that would require careful forecasting and long range planning well after immediate and short range compliance plans have been adopted.

It is likely that the **ADA** will change the composition of the sworn police work force. Some physical and mental disqualifications that currently exclude entry level candidates may be eliminated under **ADA** regulations. Some officers that are currently being terminated or retired because of illness or injuries could qualify under the **ADA** to demand accommodations and remain on the job. In essence, employees with disabilities are likely to be a significant part of future sworn police work forces. The preliminary efforts of this project involved studying potential work force impacts of disabled employees and identifying a single future issue and three sub-issues appropriate for this study.

In order to understand how the subsequent issue and sub-issues were developed, it is necessary to become familiar with a basic overview of the **ADA**. An appreciation of the **ADA** application to law enforcement requires an understanding of who is covered, why an understanding of the "**essential functions**" of a sworn officer's job is important, and what factors will be considered to determine reasonable police employer "**accommodations**" under the **ADA**.

ADA OVERVIEW

The **ADA** was designed to provide a wide range of protections to individuals with disabilities. These protections range from prohibitions against discrimination in employment to specific

requirements for modification of public facilities and transportation systems to accommodate the special needs of disabled individuals. The ADA consists of five titles. Title I prohibits discrimination in employment by covered entities against qualified individuals with disabilities. Title II includes state and local government as "covered entities." Covered entities may not discriminate in decisions concerning application procedures, hiring, advancement, discharge, compensation, training, and other terms, conditions, and privileges of employment.⁴ Title III prohibits non-employment related discrimination by private entities. Title IV requires telephone services to include provisions for disabled persons. Title V sets forth miscellaneous provisions, including prohibition against retaliation of persons who report ADA violations.

The ADA defines "disability" to include a physical or mental impairment that substantially limits one or more of the major life activities of an individual.⁵ A "qualified individual with a disability" is someone who can, with or without "reasonable accommodations," perform the "essential functions" of the job that the individual seeks or holds.⁶ "Reasonable accommodations" may include anything from modification of existing facilities to job restructuring.⁷

The legislative history of the ADA indicates that Congress did not intend to "undermine an employer's ability to choose and maintain

qualified workers."⁸ The **ADA**, however, allows employees and applicants to challenge the employer's description of what constitutes the "essential functions" of the job. The identification of essential functions of the job, therefore, becomes a critical issue. If a person cannot perform the essential functions, with or without reasonable accommodations, he or she will not be a qualified individual with a disability, who is protected by the **ADA**.

Congress viewed essential functions as "job tasks that are fundamental and not marginal."⁹ This requirement will ensure that employers can continue to require all employees, including those with disabilities, to be able to perform the essential functions of the job in question. On the other hand, the **ADA** emphasizes that disabled persons may not be disqualified simply because they may have difficulty performing marginal tasks.

The identification of essential versus marginal tasks for sworn police officers will be made on a case by case basis. In a recommendation to a nation-wide International Association of Chiefs of Police gathering in 1991, **Dr. Betty B. Bosarge** emphasized that police departments are now required to write job descriptions for all sworn officer positions and include the essential functions in each position.¹⁰

This recommendation raises a complicated issue for police executives. The EEOC has only provided rough guidelines on how a police

agency is supposed to determine how many particular "positions" exist for sworn officers. Many police agencies have responded to the ADA by arguing that it hires and assigns all of its officers to make forceful arrests.¹¹ Agencies could, therefore, argue that they could not hire or retain an officer who was not able to make a forceful arrest. Disabled advocates would be likely to point out that even a medium-sized police department has several officers filling positions of Drug and Alcohol Resistance Education (DARE) officers, public information officer, detective, evidence technician, and court liaison officer. If a court is convinced that each of these assignments are indeed "positions," the department may have a difficult time establishing that the ability to make a forceful arrest is a critical function of each and every sworn position.

Assignment rotation policies further complicate this issue. In medium-sized police agencies the ability to rotate officers through specialized positions is often considered very important to relieving job burn-out, facilitating training, career development, and promoting morale. In order to maintain an effective rotation policy, many police agencies may argue that all officers must remain capable of performing normal police officer duties.

The EEOC has also issued guidelines for determining what is considered a "reasonable accommodation" required of employers.

It is clear that "job restructuring" is included in the recommendations.¹² The ADA does not require job restructuring to include a "fundamental alteration of the essential functions of the job in question."¹³ Here again, identifying the **essential**, versus **marginal**, functions of a particular job may prove to be complicated. This issue is most relevant to the determination of whether sworn officers, disabled on the job, can **demand** accommodations through desk assignments if their injuries disqualify them for normal "street duty."

In the areas of potential defenses, the ADA does not require an agency to make an accommodation if the accommodation would result in "undue hardship" considering factors such as cost, available financial resources, or other significant difficulty.¹⁴ Police agencies may also disqualify a disabled applicant or employee if the individual poses a "direct threat" to the health and safety of others in the work place. A "direct threat" is defined as a significant risk that cannot be eliminated by a "reasonable accommodation."¹⁵

Further management challenges are raised by the ADA inclusion of **former** users of illegal drugs in their categories of protected individuals. The ADA specifically excludes an applicant or employee who is currently using illegal drugs.¹⁶ However, a former user of illegal drugs may be a qualified individual with a disability if

he or she has been rehabilitated or is in the process of being rehabilitated.¹⁷

If an agency's policies deny benefits or employment to a qualified individual with a disability, it may have a further defense if it can demonstrate that its policies are "job related, consistent with business necessity, and reasonable accommodations cannot be accomplished."¹⁸

LAW ENFORCEMENT RESPONSE

The law enforcement response to concerns over discrimination suits under the **ADA** has focused, so far, on attempts to resolve questions over recruitment and entry level selection procedures. Since the hiring of new officers is a daily responsibility, it is not surprising that Lee P. Brown, former Police Commissioner of New York City and President of the International Association of Chiefs of Police, describes the most pressing national law enforcement concerns in categories that relate directly to the selection process. In a letter, on April 29, 1991, to Frances M. Hart, Executive Officer of the Equal Employment Opportunity Commission, Commissioner Brown represented the IACP in seeking a law enforcement exemption to the **ADA** and cited the following reasons:¹⁹

1. **Reasonable Accommodation Requirement** - The entry level police position is typically the beat patrol assignment. This assignment requires candidates to be in top physical and mental condition. To require police agencies to modify existing physical job qualifications to accommodate examinees who are clearly unable to perform essential functions of the job would endanger the candidate's safety.

2. **Prohibition Against Pre-Employment Medical & Psychological Examinations** - One of the primary goals of the ADA is to eliminate the employment practice of screening job applicants early in the selection process by making **preliminary** inquiries about physical and psychological condition and background. Disability advocates are convinced that the low employment rate of disabled citizens is due in part to the refusal of employers to explore relevant job qualifications as soon as they become aware of a disability. The ADA prohibits any inquiry into physical or mental conditions until the candidate has been otherwise determined to be qualified for the position and a conditional job offer has been made.²⁰

Commissioner Brown argued that the hiring of sworn police officers involves an expensive background investigation.

To postpone medical and psychological inquiries until the completion of all other selection processes will impose an undue hardship on law enforcement budgets. IACP supports this position with statistics from the Ohio State Highway Patrol indicating that they had 3,401 employment applications in 1990. Of these, 21% (703) of the individuals were screened out at initial contact due to some physical impairment which would preclude them from performing the essential functions of the job. Based on a processing cost of \$2,486 for each successful applicant, the Ohio Highway Patrol estimates that it would have spent an unnecessary \$1,747,658 to process candidates under **ADA** requirements.²¹

3. **Physical Fitness Programs** - Commissioner Brown voiced concern that alteration of selection criteria would also restrict the ability of police agencies to maintain on-going, mandatory physical fitness standards for officers who work patrol assignments.

4. **Illegal Drug Use** - although the **ADA** does not protect current users of illegal drugs, former users are protected under certain circumstances. Congress decided not to exclude former drug users from the **ADA** definition of a "qualified individual with a disability" if they have successfully completed a supervised rehabilitation

program or **are participating** in a supervised rehabilitation program and no longer using illegal drugs.

Commissioner Brown pointed to numerous statistics from the Department of Justice, Bureau of Justice Assistance (BJA) indicating that individuals with significant prior drug histories are predictably unsuccessful as sworn police officers.²² Commissioner Brown voiced consistent law enforcement concern that the EEOC definition of "rehabilitated" is too vague and will unreasonably reduce law enforcement's authority to eliminate proven, high risk candidates.

LONG RANGE FUTURE PROBLEMS

Because the **ADA** will indeed complicate the recruitment and selection of sworn officers, it is not surprising that the present focus of police executives is on policies and procedures directly related to hiring. Most of these problems have foreseeable, though difficult, potential solutions. The entry level position for sworn officers is likely to remain the beat patrol officer. Agencies are likely to develop job descriptions that effectively include essential tasks of the beat patrol officer. Hiring practices are likely to continue to support high physical and psychological candidate standards. Some accommodation is expected in the areas of visual

acuity and hearing but, for the most part, selection criteria, already tested under the **1973 Rehabilitation Act**, will probably continue to apply.

The selection process will require considerable alteration to include the concept of **conditional job offers** prior to medical and, possibly, psychological examination. Police agencies have typically conducted detailed preliminary interviews of applicants in order to eliminate unqualified candidates early in the process. An extensive polygraph examination of candidates, early in the process, has been considered valuable in directing background investigative inquiries. The hiring process under strict ADA regulations (Section 102[c]) prohibits **any** inquiries related to physical or mental disabilities prior to a conditional job offer. This requirement will significantly limit the extent of background inquiries, polygraph questions, and psychological examinations conducted prior to a conditional offer of employment. Law enforcement agencies will argue that these processes should be postponed until **after** a conditional job offer, but it is clear that litigation over this disagreement will proceed well into the future. The purpose of ADA Section 102 (c) is to make the applicant's physical or mental (e.g., prior drug addiction) disability the final factor considered by the employer before hiring. If employers were allowed to load up conditional offers of employment with requirements in addition to passing a medical examination, the purpose of Section 102(c) would be defeated.

Police agencies may have some success establishing a qualification standard that excludes individuals with a significant history of illegal drug use. The EEOC guidelines provide for disqualification if the agency can show that a "drug abuse standard is job related and consistent with business necessity."²³

Mandatory physical fitness programs are likely to be difficult to justify. Typical fitness standards for police officers are scored based on the officer's age, gender, or both. Agencies will argue that such standards are job related and consistent with business necessity. Despite efforts to tailor fitness standards by age and gender, a mandatory program will inherently include sanctions and incentives. Courts are likely to conclude that physical fitness premiums violate the ADA's prohibition against discrimination in compensation. Physical fitness premiums, whether provided in direct compensation or paid leave, will involve paying more to an employee who is not disabled than to one who is disabled. This difference in compensation is prohibited by Sections 102(a) and 102(b)(1) of the ADA.

However these problems are attacked, it is likely that some form of manageable resolution will occur within the next five years. Within the next ten years, however, it seems apparent that the most difficult effect of the **ADA** to forecast is the requirement to provide **reasonable accommodations** for officers who develop illnesses or disabling injuries while currently employed.

It is interesting to note that, in former Commissioner Lee Brown's April, 1991 letter to the EEOC, he writes that adjusting job qualification standards is "quite different" for experienced officers than it is for entry level candidates. Commissioner Brown notes further that "reasonable accommodations are more easily made as the skills, techniques, and background of experience that comes from the street has been gained by the officer and light duty, or different duty, can often be arranged by the agency."²⁴

Most medium sized police agencies have written or unwritten policies regarding temporary, long term, and permanent modified duty positions for sworn officers. The ADA has caused police executives to take a hard look at these policies. A random survey of twenty California police agencies revealed that very few make accommodations for **permanent** modified-duty positions. All twenty agencies surveyed advised that injured officers are frequently assigned to **temporary** modified-duty positions while they recover from injuries. The five surveyed agencies determined to be formally providing for **permanent** modified-duty positions were in Glendale, San Jose,²⁵ Long Beach,²⁶ Anaheim, and Fresno. This survey included only twenty departments, but the typical reaction to the expected impact of the ADA was for agencies to refer to any modified duty assignments as **temporary** and subject to the approval of the agency chief executive. See Appendix A for agencies surveyed.

In California, police chiefs are authorized to assign officers to permanent, limited duty positions.²⁷ The assignment operates as an alternative to termination or disability retirement when an officer claims to be physically or mentally unable to perform essential functions of a beat patrol assignment. California case law supports the chief's ability to permanently assign an officer to a desk position and remove the officer's authority to carry a firearm.²⁸ The authority has been used somewhat infrequently in the past, but efforts to reduce alleged abuses of public safety disability retirement benefits are likely to result in more common occurrences.

The uncertainty surrounding the impact of the **ADA** on a police agency's efforts to accommodate disabled officers is further complicated by the increased impact of the collective bargaining process on management decisions. Most medium-sized California police agencies contain an active and assertive rank and file labor organization. The recent recession has resulted in rank and file wage and benefit contracts that emphasize night shift differentials, seniority shift assignments, specialty pay, and premium pay for physical fitness in lieu of wage increases. The EEOC has recognized that there is a potential conflict between the police management's obligation to bargain collectively with their rank and file labor organization and their requirements under the **ADA** to make reasonable accommodations. The EEOC, however, provides very little guidance in their regulations. Legislative history

indicates that Congress intended that collective bargaining agreements **may be relevant** to the question of whether making an accommodation would impose an undue hardship.²⁹ However, Congress also concluded that the **ADA** should supersede existing collective bargaining agreements if necessary to assure that the goals of the **ADA** are met.³⁰ The impact of the **ADA** on the law enforcement collective bargaining process is very difficult to forecast and not likely to be resolved quickly.

A third future issue related to the **ADA** requirement to accommodate disabled employees involves the impact on law enforcement's unsuccessful efforts to control the rising costs of disability retirements. In 1986, Gary Johnson's study titled, **Potential Future of the Public Employee's Retirement System** recognized the future problem that would result if California police agencies continued to fail to develop effective management control over disability retirement pensions. Gary Johnson presented evidence that it was not unusual for some California police agencies to grant 76% of total retirement pensions as tax-free **disability** retirements. He noted that the public was becoming increasingly concerned about what they perceived as the abuse of tax payer dollars. Johnson forecasts that reduced public confidence would eventually result in a legislatively imposed reduction or elimination of many public safety disability benefits.³¹

Five years later, in 1991, Steven Wilkins conducted a similar study on **Managing Disability Claims and Retirements: A Prescription For The California Highway Patrol:**³² Wilkins had recognized that 75% of CHP officers were still continuing to retire on job related disability claims. CHP statistics indicated that, in 1988, 38% of CHP officers retiring on disability claims were under 40 years of age. Mid-career disability retirements have been estimated to cost an average of \$175,000 more in agency contributions than a full service retirement.³³ Wilkins acknowledged that legislative reform was unlikely as an effective remedy to what appeared to be continuing abuses of the disability retirement system. Wilkins recommended that the number of questionable disability retirements could be reduced through management training and more effective and sensitive treatment of workers compensation claims by the employee's department managers and supervisors.³⁴

A review of California police agencies by the San Jose Mercury News in 1992 indicates that alleged abuses of the safety disability pension is getting worse, rather than better. On a national level, a 1981 study of 100 public retirement plans conducted by the Urban Institute concluded that the probability of becoming disabled for general members is one percent and twenty percent for police and fire members.³⁵ In California's primary public safety pension system (PERS), half of the 32,500 public safety workers who have retired from nearly 700 agencies left on job-related disability.³⁶ A three week special series in the San Jose Mercury News in

October, 1992 reported that twenty medium-sized California police agencies had disability retirement rates in excess of 62%. Nearly half of the twenty agencies had disability rates that were 65% or greater.³⁷ Refer to Appendix B for complete survey.

The impact of the 1992 implementation of the 1990 **ADA** on disability retirement systems is difficult to forecast. Gary Johnson's 1986 forecasts are becoming an unfortunate reality. The cost of disability retirements to taxpayers, and to employees still working and contributing to the retirement system, is huge. The continued increase in mid-career disability retirements is a major factor in putting the fiscal integrity of the major retirement systems into question. California's financial problems are not expected to improve for several years and in many municipal agencies the unfunded liability, (i.e., money the pension plans are obligated to pay out in the future but do not now have), is reaching very high levels. In 1992 the California State Controller's Office reported an estimated total unfunded liability among all California pension systems at \$34 billion dollars.³⁸ This does not represent an immediate threat to today's retirees, but over the long term this liability must be reduced to acceptable levels to avoid pension system failures.

A number of California police agencies are formalizing their temporary light-duty assignment policies in order to reduce workers

compensation costs. The development of permanent, modified-duty positions is proceeding much slower and in many cases not at all.

Interviews with police managers from the five agencies that reported permanent modified-duty positions (see Appendix A) for sworn officers revealed that they recognize a departmental obligation to extend reasonable accommodations to officers who can perform the essential functions of particular sworn officer assignments. All five managers recognized a need to manage the program carefully and one agency was taking current steps to reduce the number of modified positions in response to management staffing concerns.

The **ADA** impact on current modified duty policies and disability retirement programs in California police agencies will be evaluated by the EEOC and federal courts on a case by case basis. The ability to reach successful resolution of these specific issues will depend on thoughtful forecasting and effective long-term policy development and strategic planning. This study is intended to provide suggestions to aid law enforcement executives in their efforts to comply with **ADA** requirements in a specialized and unique employee working environment.

CHAPTER I

FUTURES STUDY

- * Phase I: Issue & Sub-Issues
- * Phase II: Trends and Events
- * Phase III: Forecasts
- * Phase IV: Cross Impact Analysis
- * Phase V: Scenarios
- * Phase VI: Policy Identification

FUTURES STUDY

An effective long-term strategic plan requires a futures study to forecast likely future scenarios. The scenarios serve as a basis for policy identification and analysis. Functional policies will lead to sound strategic planning. The futures study that follows is divided into six phases. **Phase I** involves the identification of the project issue, relevant sub-issues, and potential relevant trends and events. **Phase II** includes the development of five trends and five events that were determined to be most relevant to the issue. **Phase III** presents the forecasts of each trend and event. **Phase IV** is a cross-impact analysis of the trends and events. **Phase V** is an examination of nominal, hypothetical, and normative scenarios, and **Phase VI** covers policy identification and analysis.

PHASE I

Identification of Issue and Sub-issues

The issue and sub-issues that surfaced from the literature and interviews described in the **Introduction** are:

Issue:

What impact will the ADA have on the ability to manage a police work force containing disabled officers in 2002?

Sub-issues:

1. What strategies will exist to accommodate sworn officers with permanent job-related disabilities under the 1990 ADA?
2. What effect will the ADA have on the police collective bargaining process?
3. What approaches will police agencies use to control the budgetary demands of managing sworn officer disabilities?

Significant Trends and Events:

In order to facilitate the development of at least five significant trends and five significant events relevant to the stated issue and sub-issues, a nominal group technique (NGT) was utilized. A seven member panel was formed, including a municipal police captain from a relatively small Marin County agency, a police lieutenant assigned to the uniform division of a medium sized Marin County agency, a police chief from a small Contra Costa County police agency, a police lieutenant with extensive experience in

police personnel and disciplinary functions of a larger metropolitan Sacramento County police agency, a police mid-manager from a Contra Costa Community College police agency, a police lieutenant from a mid-sized municipal police agency in San Mateo County, a city personnel analyst, and a workers' compensation insurance adjuster. See Appendix C.

On April 1, 1992 at 9:00 AM, the panel convened and the stated issue and sub-issues were presented and explained to the panel. The panel was instructed that their job was to identify at least five **trends** and five **events** that were likely to be related to, or affect, the issues and sub-issues. The terms **trend** and **event** were defined and examples were presented. A trend was defined as "a measure of change over time." An event was defined as "a one time occurrence, observable in retrospect." A trend is comparable to a river with a stream of occurrences flowing through time. An event is comparable to a stone being dropped into the river causing ripples or a certain amount of temporary disruption to the flow. The larger the stone, or more significant the **event**, the more disruption or diversion results in the flow or **trend**.

Once panel members understood the concept, they were asked to work alone to develop five relevant trends. The trends from each member were listed, clarified, and discussed. The panel then voted separately on five most relevant or important trends. The votes were then tabulated and the five **trends** receiving the most panel votes

were used in this study. The same process was used to develop five relevant **events**. The context in which these trends and events were discussed, and general areas of inquiry, are described in the Results Chart in Appendix D. A complete list of the trends and events generated by the group is contained in Appendix E.

PHASE II

Trends:

The nominal group panel identified the following five trends they believed were most relevant and important to the stated issue question.

Trend 1: The number of modified-duty assignments available for sworn officers.

When uniformed police officers are injured or otherwise unable to perform the full range of street patrol duties, they may be placed in temporary, non-field assignments while they recover. Temporary assignments are easier to arrange than permanent positions. The traditional philosophy that work should be found for disabled officers is often resisted by officers who would rather take a disability retirement. Police associations often resist the loss of access to specialty assignments occupied by permanently disabled officers.

Trend 2: Workers' Compensation Costs Attributed to Sworn Officer, Industrial Injuries.

Police agencies and their employing authority are required to maintain workers' compensation insurance or obtain approval from the State to qualify as self-insured. Workers' compensation costs can be expected to be 5 - 10% of the total budget. These costs are difficult to predict and can be affected by the number of uniformed officers, frequency of field duty hazards, fitness of employees, organizational morale, and time off for specific injuries.

Trend 3: Capacity of Sworn Police Labor Organizations to Influence Work Shift and Specialty Job Assignments.

Sworn police associations in small and medium sized police agencies have generally negotiated with city representatives for wages and related benefit packages. Some police associations have split their representation of rank and file from their management units. The rank and file representation units have begun to negotiate for specific terms and conditions such as specialty assignment pay, seniority shift assignments, and premium pay for night and weekend shifts. These negotiations are beginning to impact what have traditionally been classified as management rights.

Trend 4: Frequency of Mid-career, Sworn Officer, Industrial Disability Retirement Pensions.

Disability retirement plans for safety employees have been criticized for being poorly administered, easily defrauded, and wasteful of tax dollars. Police organizations cite the hazardous nature of the job and deny that insurance plans are being abused. Mid-career safety retirements due to job related disabilities are extremely costly and attracting considerable current attention from several fronts.

Trend 5: Work Performance Problems Directly Related to Drug and Alcohol Abuse by Sworn Officers.

The nature of law enforcement employment creates very little tolerance for lapses of judgement, theft, false testimony, and corruptions due to drug and alcohol abuse by sworn officers. Since sworn officers are recruited from the general population, it can be expected that police organizations will suffer from a certain degree of drug and alcohol abuse. **The 1990 Americans With Disabilities Act** protects rehabilitated former drug abusers and many police administrators expect a negative impact on their ability to prevent or deal effectively with problem officers. Applicants convicted of prior felony drug offenses are relatively easy to exclude, but drug abusers never arrested, charged, or convicted are protected and may be difficult to identify prior to hiring.

Events:

The nominal group panel also identified five events that they believed were the most significant to the stated issue question.

Event 1: Police Department Morale Drops Dramatically, Over Short Time Period, And Creates Crisis For Management.

Employee morale is more than a casual concern for police chiefs. Conditions that cause dramatic drops in work force morale are typically reflected in rude treatment of citizens, unsafe and abusive police tactics, insubordination, and distasteful back door politics by police labor representatives.

The accommodation of disabled sworn officers in temporary and permanent modified duty positions can be interpreted as unfair favoritism. Non-disabled sworn officers have a tendency to perceive officers in modified-duty positions as malingerers. Officers assigned to modified-duty positions are generally placed in non-productive desk jobs and can lose their sense of self worth.

Organizational morale is an ongoing organizational component. A dramatic and very rapid drop in employee morale, however, is an event that can shock an agency into a crisis as confidence in the chief and upper management capability disappears.

Event 2: Police Department Approves and Adopts a Mandatory Physical Fitness Program.

A fitness program is an effective way of requiring officers to maintain a physical condition that at least approximates the requirement in place when they were hired. Traditional issues surrounding incentives and effective sanctions are further complicated by the 1990 ADA prohibiting discrimination, in all aspects of employment, based on physical and mental disabilities. The adoption of a physical fitness program, with or without substantial employee support, is an event that could impact mid-career disability retirements, workers' compensation costs, and attitudes toward modified-duty positions.

Event 3: Equal Employment Opportunity Commission (EEOC) Adopts A Significant ADA Exemption For Law Enforcement.

Despite considerable opportunity for the law enforcement community to provide input prior to the issuance of EEOC guidelines in January of 1992, the application of ADA provisions remain unclear in many areas. Many law enforcement executives will argue for exemptions on a case by case basis. EEOC enforcement criteria and future ADA guideline interpretations could result in substantial exemptions for law enforcement agencies.

Event 4: Police Department Approves Permanent Modified-Duty Positions.

The initial reaction of many police agencies to the ADA has been to adopt policies that restrict the number of modified-duty positions available to sworn officers. It is clear that a policy that recognizes a department's willingness to employ a sworn officer, when his or her physical or mental condition permanently prevents certain street level assignments, invites a number of related issues. How does the department limit the maximum number of positions? Which assignments qualify? What is the protocol for selecting officers for this accommodation? Should a written contract or agreement be drawn between the employee and the agency?

Event 5: Police Department Adopts A Community Oriented Policing Style.

Community Oriented Policing is a distinct style of police work that has been studied for many years. The philosophy incorporates a strategy of examining former police problems as community problems. The beat patrol officer remains the fundamental component of the police organization, but he or she is provided extensive training that allows him or her to identify, and attack, underlying causes of concentrated demands for frequent police responses.

In theory, the officers can be more successful assisting community groups in eliminating the sources of problems than they ever can be simply reacting to an increasing number of symptomatic calls for service.

Community Oriented Policing is much easier to describe than it is to actually apply. In order to successfully institute Community Oriented Policing, substantial restructuring of the department and committed involvement from all bureaus and divisions is necessary. If this commitment is made, the change in policing style must occur rapidly following careful planning and preparation. This rapid transformation is a significant event that results in the recognition that the most effective police officers are those who can organize special interest groups, apartment managers, business owners, and community resources. Officer performance evaluations will rely less and less on references to the number of traffic citations written, arrests made, and reports completed. A department applying a bona fide Community Oriented Policing philosophy looks at essential job functions in a different light than police organizations applying more traditional methods.

PHASE III

Trend Forecasts:

Having developed this list of trends and events, a modified conventional delphi technique was used to facilitate the same panel's forecast of the likely future of each trend relevant to the identified issue. Each panel member was asked to make a **Nominal Forecast** as well as a **Normative Forecast** of each trend. These forecasts were made by asking each panel member to estimate the relationship of each trend to its level of impact **today** as opposed to **five years ago, five years from today, and ten years from today.**

The **nominal forecasts** answered the question: "What do you think each trend level **was** five years ago and what do you think each trend level **will be** five years from and ten years from now?" The nominal forecasts are made on the assumptions that the forces currently in motion will continue to operate and affect future outcomes.

The **normative forecasts** answered the question: "In your opinion, what do you think the level of each trend **should be** five and ten years from now?" The normative forecasts are value judgements and goals for the future, tempered by a sense of what is realistically possible. All forecasts are relative to "today" and today equals

100. A forecast of zero means that the trend ceases to exist. The scale has no upper limit.

Table 1 depicts median scores for nominal and normative trend forecasts. The squares for five and ten years show two figures. The first number indicates the median, **nominal** forecast. The second half indicates the median, **normative** forecast.

TABLE I

MEDIAN FORECASTS - NOMINAL AND NORMATIVE TRENDS

N = 9

TREND STATEMENT		Level of the Trend Today = 100			
		5 Years Ago	Today	5 Years From Now	10 Years From Now
T-1	Number of modified-duty assignments available	95	100	95/110	110/120
T-2	Workers' Compensation Costs - Industrial Injuries	80	100	130/115	160/125
T-3	Capacity of police labor organizations to influence work shift and specialty job assignments	75	100	130/110	135/120
T-4	Frequency of sworn officer, mid-career, industrial disability retirements	80	100	110/115	135/115
T-5	Formal disciplinary actions against sworn officers related directly or indirectly to drug and/or alcohol abuse	80	100	115/110	135/115

Figure 1 (Trend 1) represents a wide range of panel forecasts regarding modified-duty positions for sworn officers. Panel members presented a significant difference of opinion on both the past five year and future ten year time period. The variation is most likely due to the representation from small as well as large police agency managers. The panel members from outside law enforcement also contributed, however, to a lack of consensus concerning this trend.

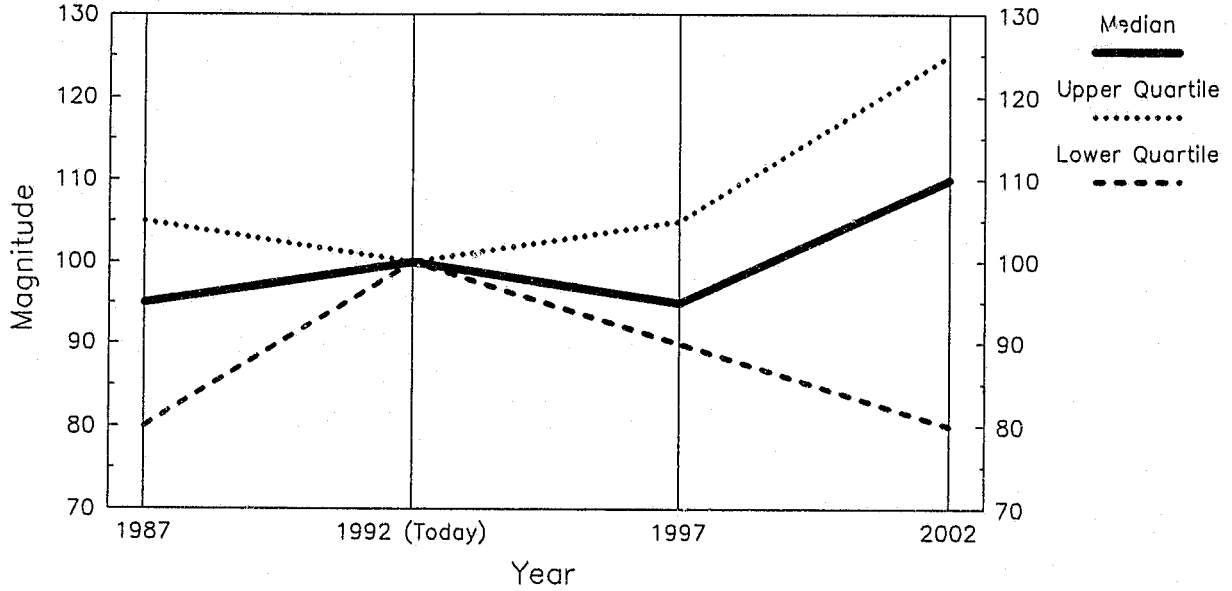
It was clear that severe public sector budget constraints were being recognized by all members of the panel. Budget difficulties, both current and unclear future, caused some panelists to forecast a severe undue hardship if a police agency considered accommodating a sworn officer in long-term or permanent modified-duty positions. Managers from small agencies were in favor of retiring and replacing an officer if he or she was unable to perform street level assignments. Some panelists were much less concerned about the number of sworn officers retiring on a disability pension than they were about maintaining an adequate number of full-duty officers.

Other panelists, however, forecast that the ADA requirements to accommodate disabled officers who could still perform essential functions of productive assignments would result in an eventual increase in the number of agencies recognizing the advantages of retaining officers in long-term or permanent modified positions.

Figure 1

TREND 1 - NOMINAL

Number Of Modified Duty Assignments Available
To Sworn Officers (Today=100)

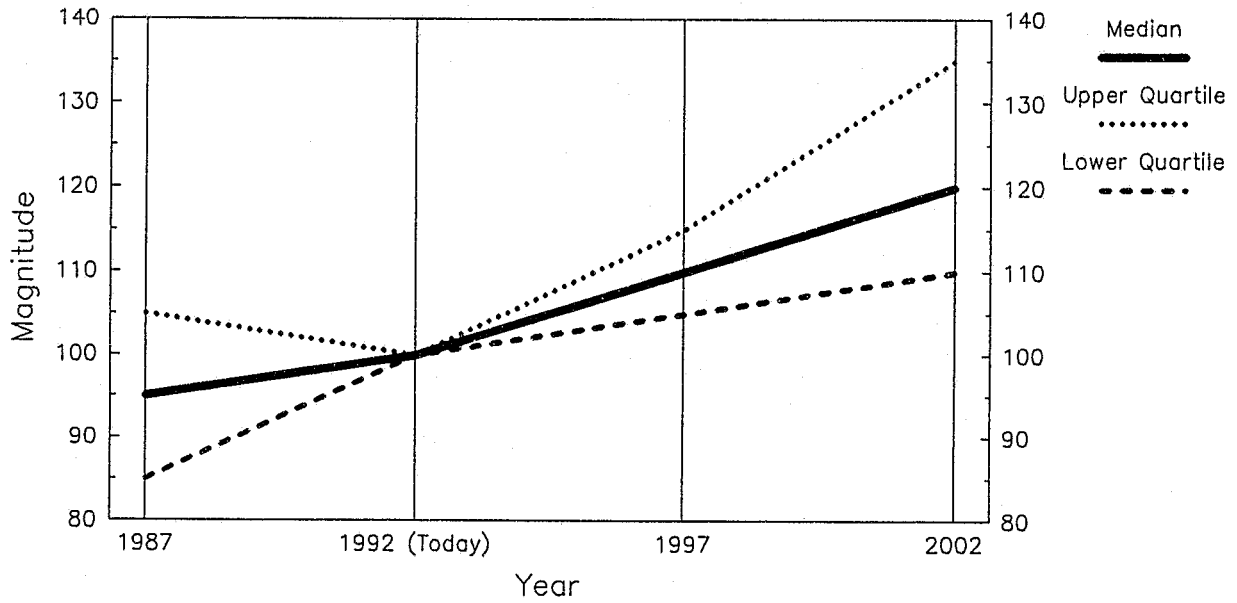


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TREND 1 - NORMATIVE

Number Of Modified Duty Assignments Available
To Sworn Officers (Today=100)



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Some panelists forecast that the police response for the next five years would be to actually reduce the number of officers occupying modified positions. This forecast was based on a belief that police agencies should minimize the number of modified-duty assignments until the specific impact of the ADA could be assessed. The median for a ten year nominal forecast showed a slight (10%) gain in some form of permanent modified positions among all police agencies.

The normative forecast seemed to additionally recognize that the ADA, lower recruitment base, and efforts to reduce mid-career disability retirements, would result in a steady, though conservative, increase in modified positions under an improved budget environment (i.e., 20% in ten years).

The **nominal** forecast in **Figure 2** indicates that panel members were in agreement that workers' compensation and industrial disability costs have increased significantly over the last five years and were likely to continue during the next ten years in the absence of significant political, economic, or policy changes. Workers' compensation and industrial disability programs were originally designed as independent employee benefits. The workers' compensation system provides a one-time benefit and furnishes medical and other payments until the employee's injury heals. Disability retirement benefits are intended to guarantee a certain amount of financial security for officers disabled on the job. Most

industrial disability plans provide an average of 50% of the disabled employee's highest salary for the rest of his or her life. Court decisions have had the effect of welding both systems together.

The California Workers' Compensation Appeals Board now issues rulings that determine for pension as well as workers' compensation administrators whether an injury is job related³⁹. Workers' compensation awards are generally easy to win and establish the basis for industrial disability retirements if rehabilitation is unsuccessful and the officer is unable to perform his or her normal duties.

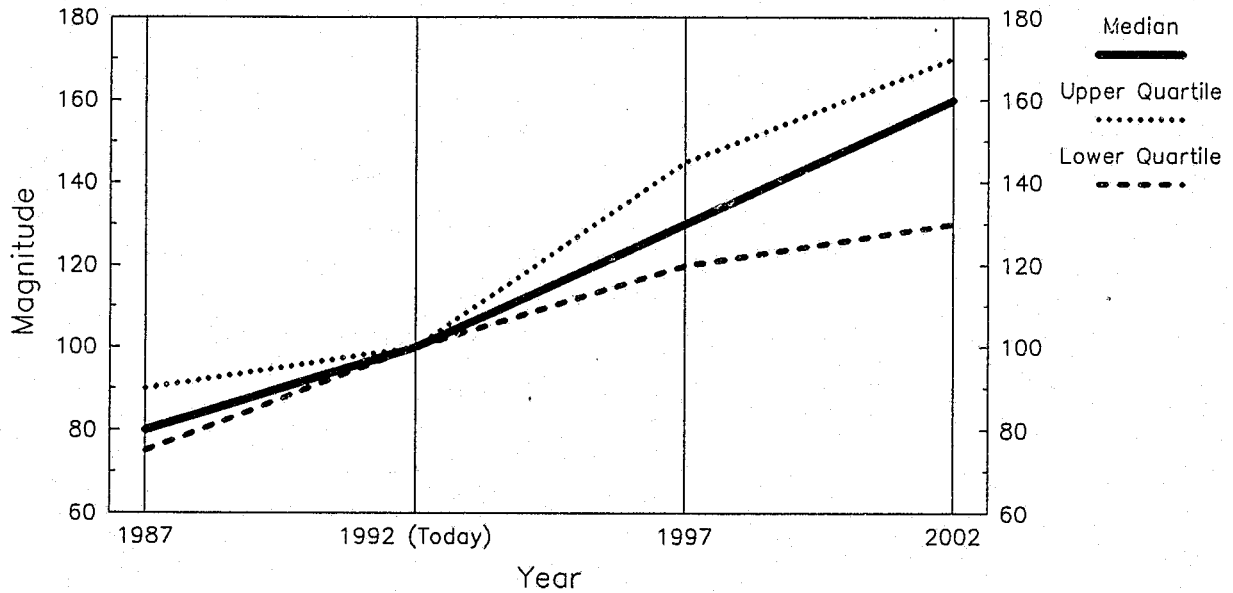
The combination of increased street level violence, budget limitations reducing the size of sworn police forces, increased number of female sworn officers, and reduced physical fitness selection criteria were all considered to increase the number of future injuries of sworn officers. The political strength of public safety organizations was considered likely to impede any serious reform in the police, workers' compensation, or disability retirement benefit system.

The **normative** forecast in **Figure 2** reflects panel consensus that an increase in these benefit costs is unavoidable but could be controlled significantly with proper injury prevention and elimination of benefit abuses. The panel expressed uncertainty as

Figure 2

TREND 2 - NOMINAL

Worker's Compensation Costs - Industrial Injury
(Today=100)

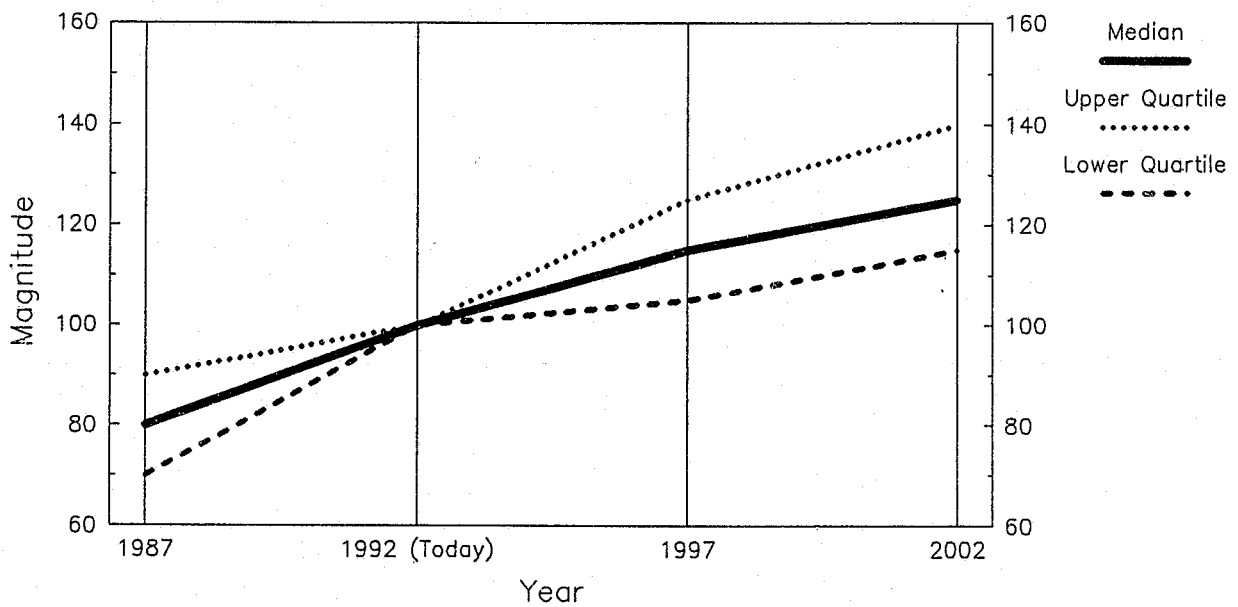


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TREND 2 - NORMATIVE

Worker's Compensation Costs - Industrial Injury
(Today=100)



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to the future impact of the ADA on agency requirements to "accommodate" disabled officers. This panel felt that potential reductions in disability retirement abuses would be negatively balanced with workers' compensation expenses associated with time off for job-related injuries and illnesses subject to protection under the ADA.

Figure 3 demonstrates the panel's **nominal** forecast that police rank and file labor organizations will continue a current trend of expanding their influence on issues historically considered management rights. Police officer associations that historically appointed committees to handle periodic wage negotiations now find themselves interested in seniority assignment plans, specialty assignment premiums, and other benefits beyond the context of standard cost-of-living wage increases. The California economic environment in 1992 has resulted in hiring freezes, lay-offs, and police program eliminations in an effort to compensate for revenue losses. With cities unable to provide cost-of-living raises, police associations have increasingly looked toward specialty and night shift differential pay schedules to provide salary increases for at least some of their members. The expansion of the specialty pay practice is just one force that has encouraged police associations to assume labor union characteristics and demand to be heard on work shift and job assignment decisions normally reserved for managers to make. The panel members representing small and medium sized police agencies saw the future of this trend as being

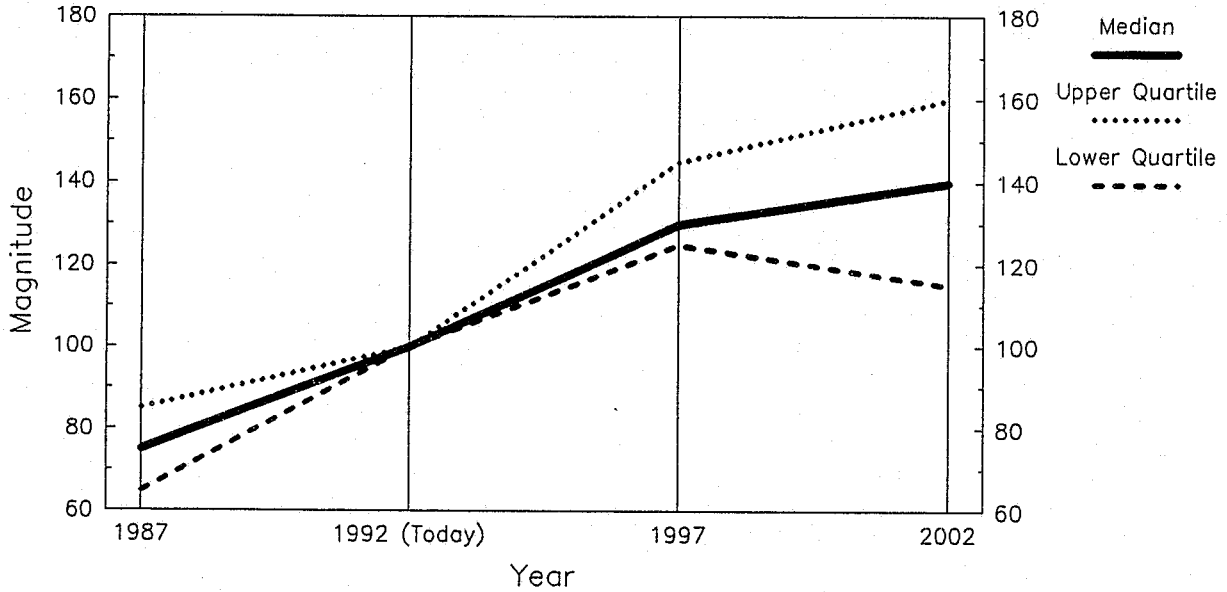
considerably more acute than panel members who had direct experience with rank and file associations in large agencies. The panel agreed that police labor associations in medium-sized departments would become more sophisticated, effective, and influential during the next five years. The panel also showed general agreement that this trend would begin to diminish after five years as police management groups are forced to become more effective at foreseeing personnel conflicts and imposing employment requirements, under the 1990 ADA, on their own agencies. Panel members generally agreed that the ADA will require some accommodation of disabled officers. This accommodation requirement is forecast to eventually limit the number of assignment issues subject to negotiation.

The **normative** forecast indicates that panel members generally believed that police associations would continue to assume labor union characteristics but that managers and administrators would learn to use this trend to the department's advantage. Open discussion of sensitive employment and morale issues between rank and file and management are regarded as much more effective than constant referrals to a formal grievance process or a lawsuit. The panel members agreed that the most advantageous arrangement included regular communication with police association representatives and cooperation rather than confrontation over terms and conditions of employment such as shift and specialty job assignments.

Figure 3

TREND 3 - NOMINAL

Capacity Of Pol. Labor Organ. To Influence
Workshift & Spec. Job Assignments (Today=100)

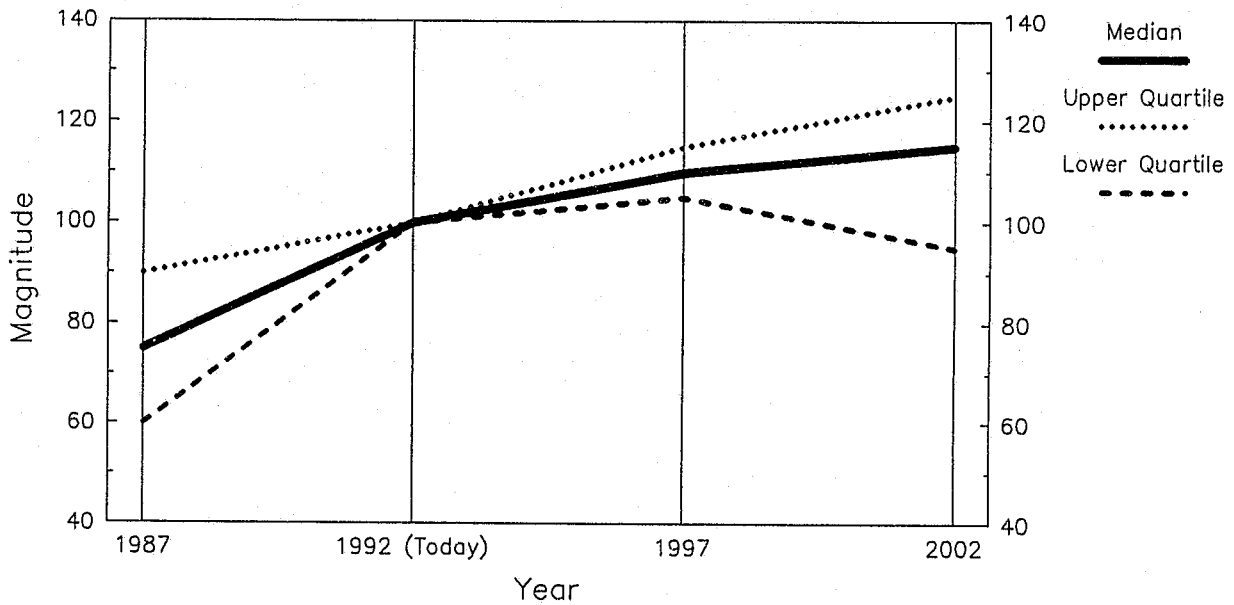


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TREND 3 - NORMATIVE

Capacity Of Pol. Labor Organ. To Influence
Workshift & Spec. Job Assignments (Today=100)



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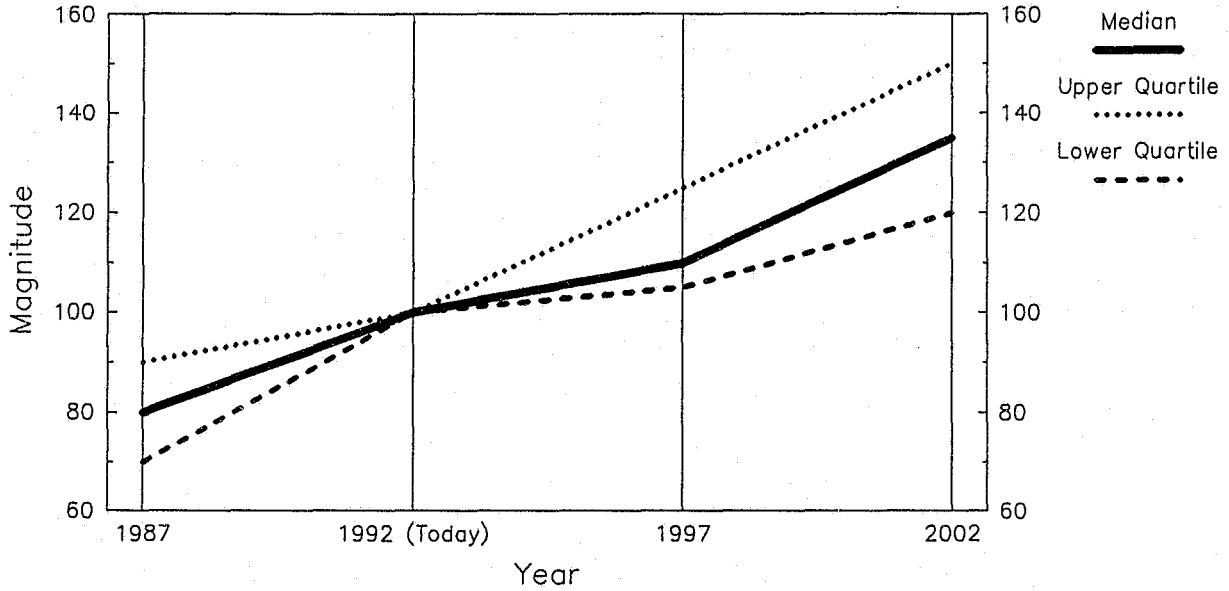
Figure 4 demonstrates the panel's consensus that mid-career, job-related disability pensions represent a trend that will continue to increase for the next five years and then accelerate as the future approaches ten years without some intervening forces. The panel was aware that industrial disability retirements represent a substantially higher rate of police officer pensions. The disability pension system in California is controlled by statute, and in many ways is considered to be an invitation to claim disability. California Government Code Section 21022 states: "Any patrol, state safety member, state industrial, or local safety member incapacitated for the performance of duty as the result of an industrial (i.e., work related) disability shall be retired for disability, pursuant to this chapter, regardless of age or amount of service." These retirements provide an average of 50% of the disabled employee's highest salary for life. In addition, disability retirement of 50% salary is tax free income.

The panel forecast that impacts of state and local budget reductions would have a very negative impact on police work environments. Panel members felt strongly that the police job would become much more demanding as street violence and drug offenses continued to increase while municipal funding lagged. The panel consensus was that an increasing number of officers would become disenchanted with the job and would take advantage of cumulative stress, bad back, or hypertension conditions to obtain job related disability retirements.

Figure 4

TREND 4 - NOMINAL

Freq. Of Sworn Officer Mid Career Industrial Disability Retirement Pensions (Today=100)

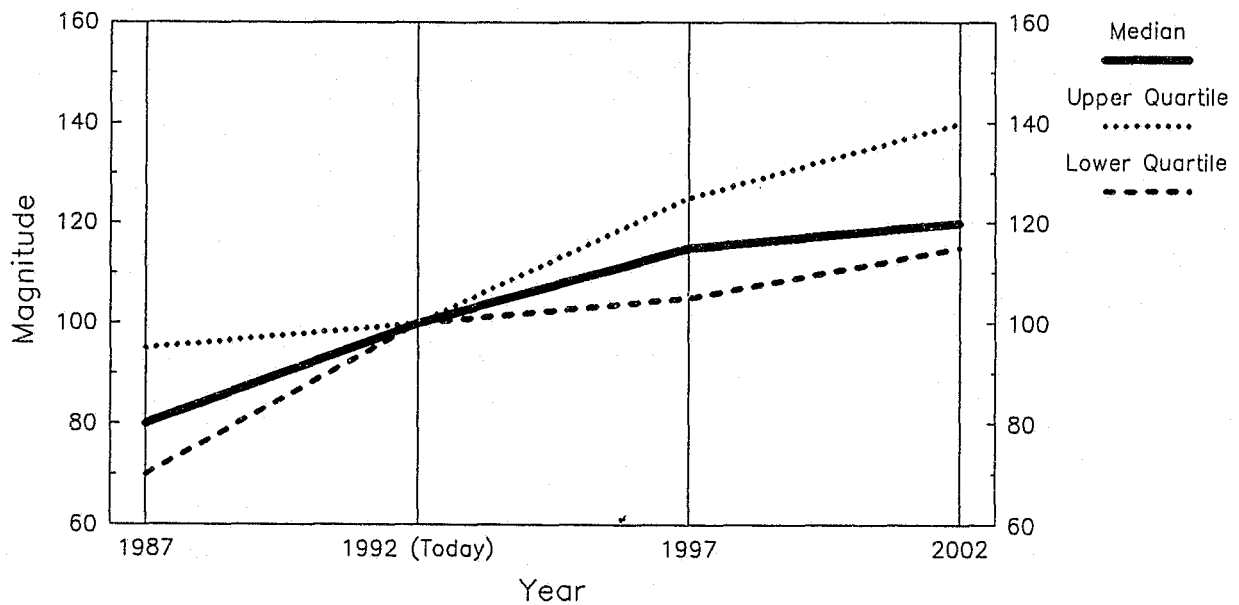


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TREND 4 - NORMATIVE

Freq. Of Sworn Officer Mid Career Industrial Disability Retirement Pensions (Today=100)



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The **normative** forecast indicates that the panel believed that proper policy implementation would have a positive impact on this negative trend. The panel agreed that the liberal tax breaks and limited review of pension applications encouraged various abuses of the benefit. The panel members agreed that aggressive review of retirement claims and effective rehabilitation programs would result in reducing the number of disability retirement claims to the more reasonable rate of 15 - 20% of total safety retirements.

Figure 5 demonstrates general panel consensus that alcohol abuse was a frequent direct or underlying cause of conduct that resulted in formal disciplinary actions against officers. Most panel members were concerned that the protection afforded to rehabilitated drug abusers under the 1990 ADA would result in a reduced ability to disqualify applicants with unfavorable drug and alcohol histories. Panel members were aware that the **ADA** did not require the hiring of applicants with a background of illegal drug abuse or the retention of officers whose job performance was hampered by alcohol. Despite this understanding, the panel still had consensus that background investigations would be less effective, selection standards would be reduced, and disciplinary actions on current employees would face demands for accommodation and rehabilitative treatment in favor of punishment and termination.

The **nominal** forecast reflects the panel's overall concern that alcohol and drug abuse will continue to be a common basis for sworn

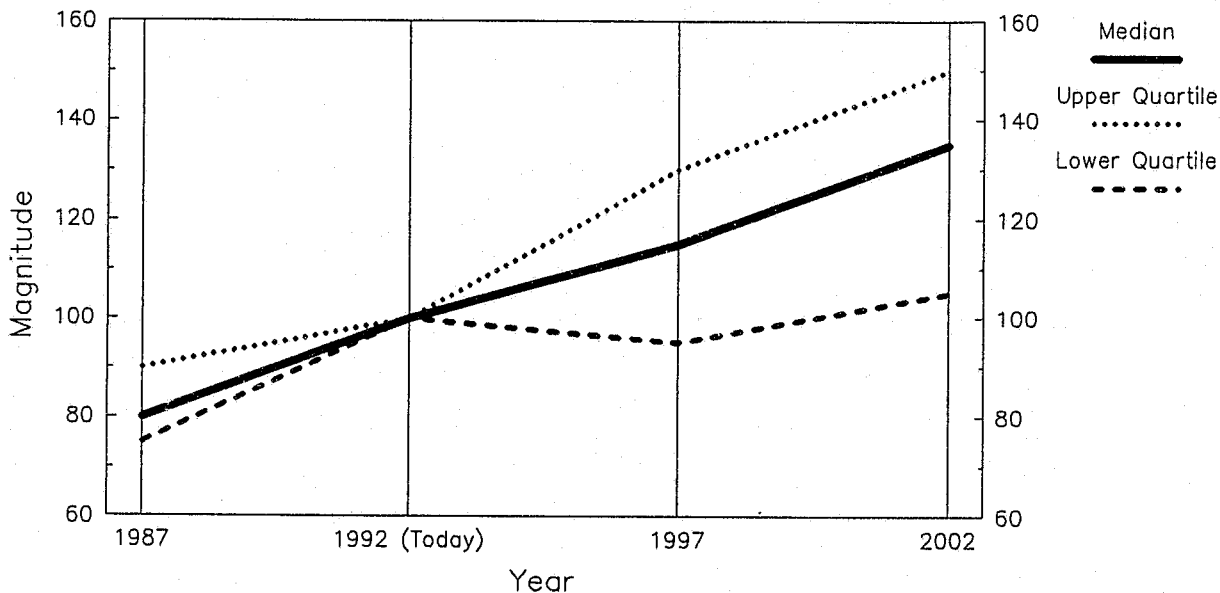
officers' misconduct. The panel forecast that the future of this trend would be likely to become even more significant after five years. The specific rationale for this forecast rested on the belief that recruitment of qualified police candidates will become increasingly difficult, the job will become more stressful, and budget constraints will result in reduced employee morale.

The **normative** forecast reflected panel confidence that effective background checks, polygraph examinations, and psychological screening could have a positive impact on the future of this trend. Panel members agreed that job stress and budget constraints would be likely to hamper the recruitment of highly qualified candidates for at least the next five years. The budget constraints will also affect the extent of background investigations practical with reduced staffing. Despite these hurdles, the panel consensus was that the **ADA** would not prohibit well-documented disqualifications of candidates if the justification was based on grounds that are "job related" and "consistent with business necessity." Most panel members believed that the incidence of drug and alcohol abuse among sworn police officers could be reduced to a point well below the normal population through the comprehensive application of the candidate screening process.

Figure 5

TREND 5 - NOMINAL

Formal Discp. Actions Against Sworn Officers
Drug/Alcohol Abuse Direct/Indirect (Today=100)

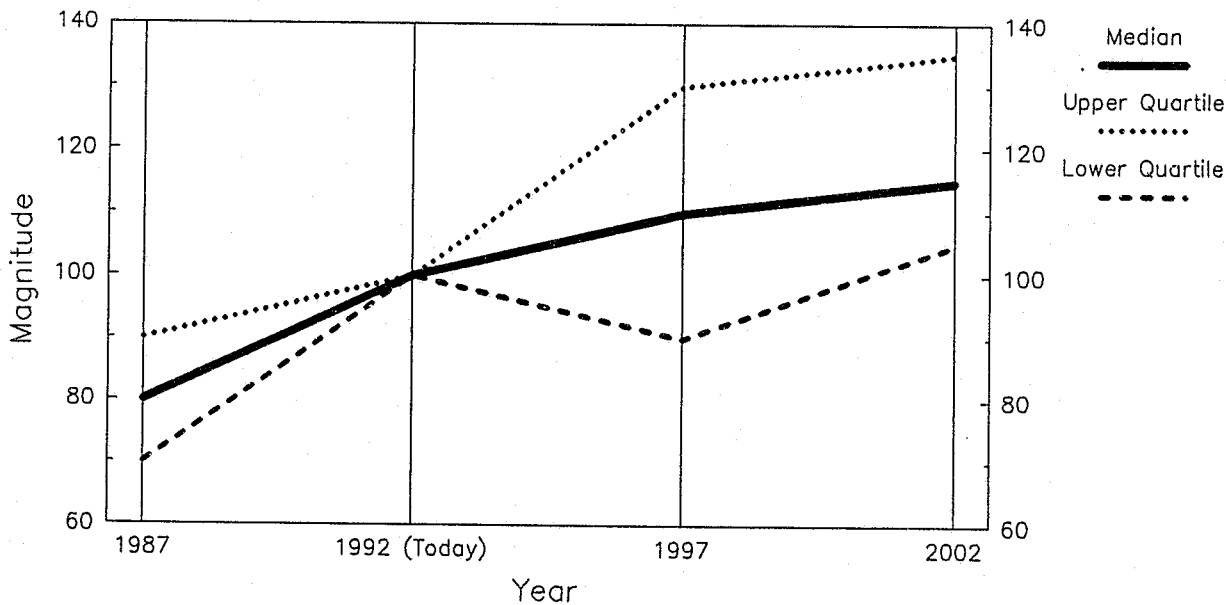


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TREND 5 - NORMATIVE

Formal Discp. Actions Against Sworn Officers
Drug/Alcohol Abuse Direct/Indirect (Today=100)



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5 Yr Intervals

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Event Forecast:

The panel members were asked to forecast the five events in our event evaluation form. This form directed members to estimate the number of years until the probability of the event's occurring first exceeds zero. Members were also asked to rate the probability that the event would occur within the next five years and within the next ten years. Zero means that the event **will not happen** by the established time limit. One hundred means that the event **will happen** by the established time limit. The panel was also asked to rate the negative and positive impacts on the issue, as if each event actually occurred. **Table II** lists the median estimates for each event.

**TABLE II
EVENT EVALUATION FORM
MEDIAN FORECASTS**

EVENT STATEMENT		Years Until Probability First Exceeds Zero	Probability		Impact on the Issue Area if the Event Occurred	
			Five Years From Now (0-100)	Ten Years From Now (1-100)	Positive (0-10)	Negative (0-10)
E-1	ADA imposed accommodation of disabled officers causes low morale to become primary dept. issue.	1	40	80	1	9
E-2	Police Department approves and adopts a mandatory physical fitness program	3	20	40	7	3
E-3	EEOC adopts significant exemption for law enforcement	2	20	30	7	3
E-4	Police Department approves permanent modified-duty positions	2	35	75	6	4
E-5	Police Department adopts Community Oriented Policing style	2	35	65	7	3

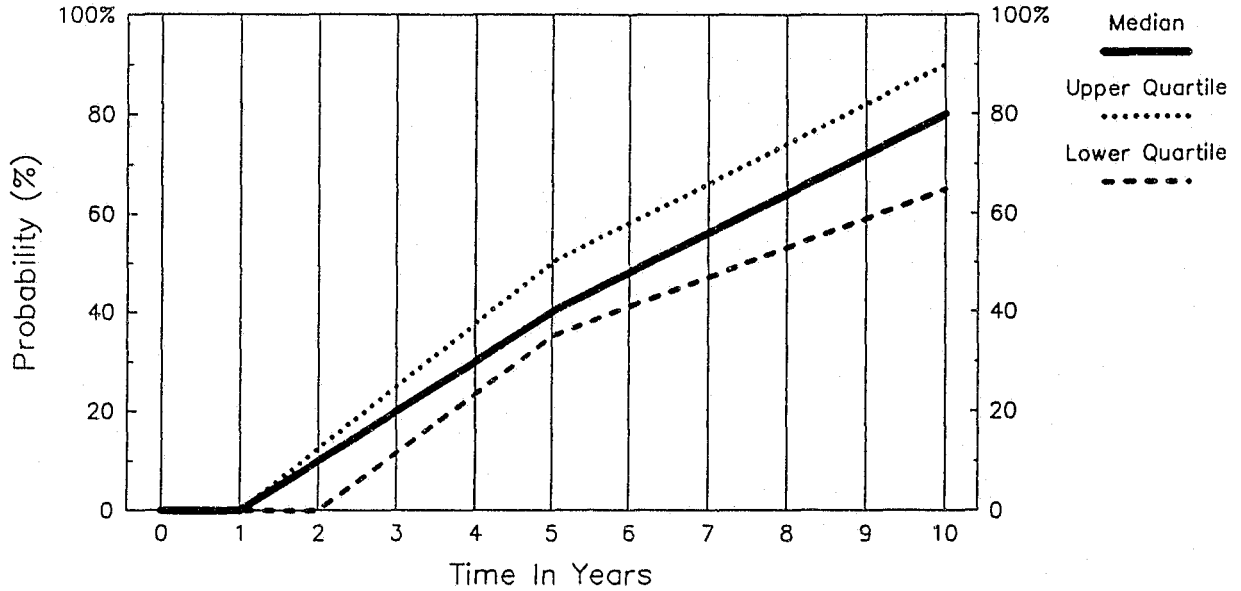
Figure 6 (Event #1) reflects the panel forecast that employee morale has a high probability of dropping very low in reaction to 1990 ADA requirements to accommodate disabled officers in non-enforcement or modified duty assignments. The panel forecast a 40% probability that employee morale would deteriorate within 5 years and an 80% probability by 10 years.

It is clear that the ADA will require police agencies to reasonably accommodate disabled officers in assignments that they are otherwise qualified for. Agency arguments that the essential functions of the patrol officers job apply to all officers will undoubtedly be rejected. Most departments assign a substantial number of officers to jobs that rarely require that forceful arrests be made or that difficult persons be physically controlled. In most investigative, administrative staff, and training positions, the ability to make a physical arrest or emergency rescue is difficult to justify as an "essential function."

The panel forecasts that ADA provisions will require police agencies to accommodate disabled officers in appropriate assignments until the agency can effectively claim that an undue hardship prevents further accommodation of disabled sworn officers. The panel reached general consensus that, as disabled officers began to permanently occupy investigative and administrative assignments, resentment would be likely to develop among both rank and file and staff. Rank and file members would view the light-duty positions

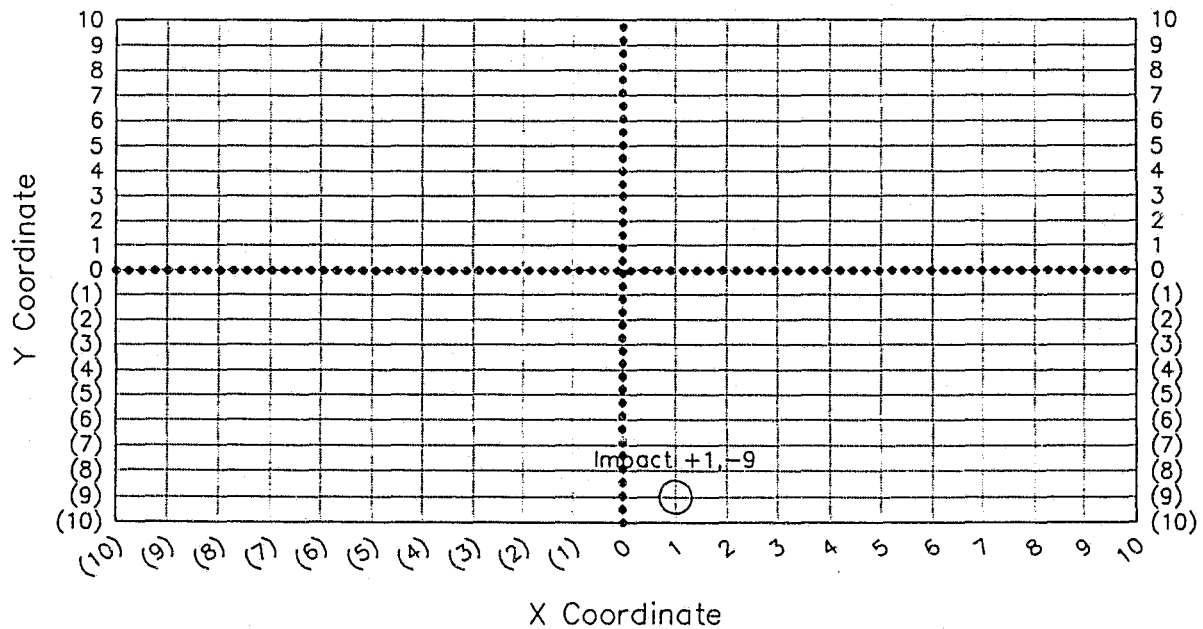
Figure 6

EVENT 1
 ADA-Imposed Disabled Officer Accommodation
 Causes Agency Morale Drop



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EVENT 1
 ADA-Imposed Disabled Officer Accommodation
 Causes Agency Morale Drop (Impact)



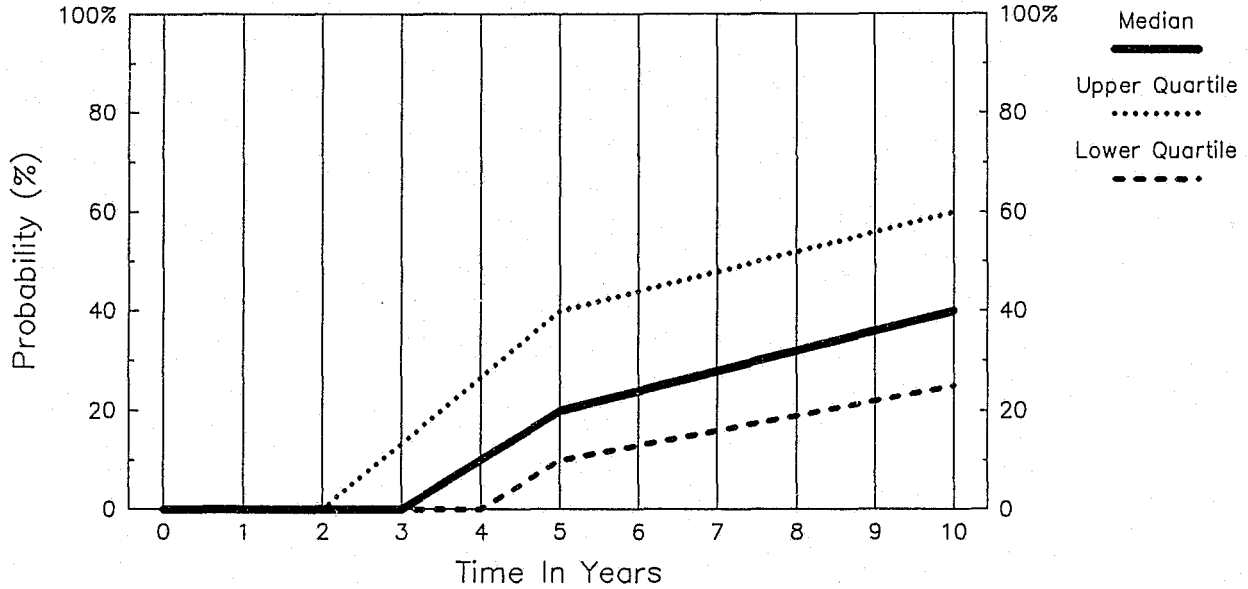
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as reducing the department's authorized field strength, thereby increasing the line officers work load. Officers occupying light-duty positions generally report feeling less than productive in dull and mundane assignments. The remaining work force tends to regard officers in permanent light-duty assignments as "second class" members of the organization. The panel forecasts that by the time the agency can successfully argue that further accommodation would be an undue hardship, the agency morale will be at rock bottom. The impact of reduced morale on the issues relevant to managing the work force under **ADA** accommodation requirements will most certainly be negative. The **EEOC** has already stated that a police employer cannot establish an undue hardship defense by showing a negative impact on morale of its other employees where there is no reduction in their ability to perform their jobs.⁴⁰ If the police agency can prove that the reduced morale results from specific inabilities of officers to perform their jobs, then a slight positive impact can result from a successful undue hardship defense. It is clear that disabled, sworn officers will create another component of work force diversity. The ability of police managers to retain the morale and productivity of its work force will depend on their capability to respond to that diversity effectively.

Figure 7 demonstrates the panel's feeling that mandatory physical fitness programs were relatively unlikely within the next 5 years (20% probability) and would increase considerably within 10 years

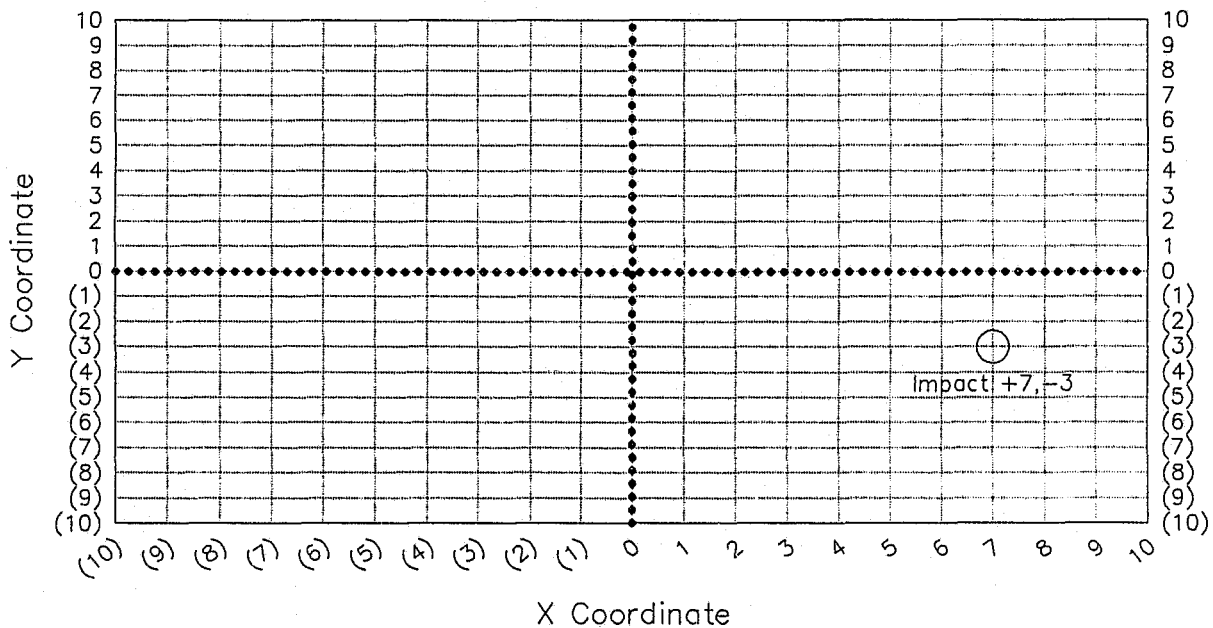
Figure 7

EVENT 2 Police Department Adopts Mandatory Physical Fitness Program



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EVENT 2 Police Department Adopts Mandatory Physical Fitness Program (Impact)



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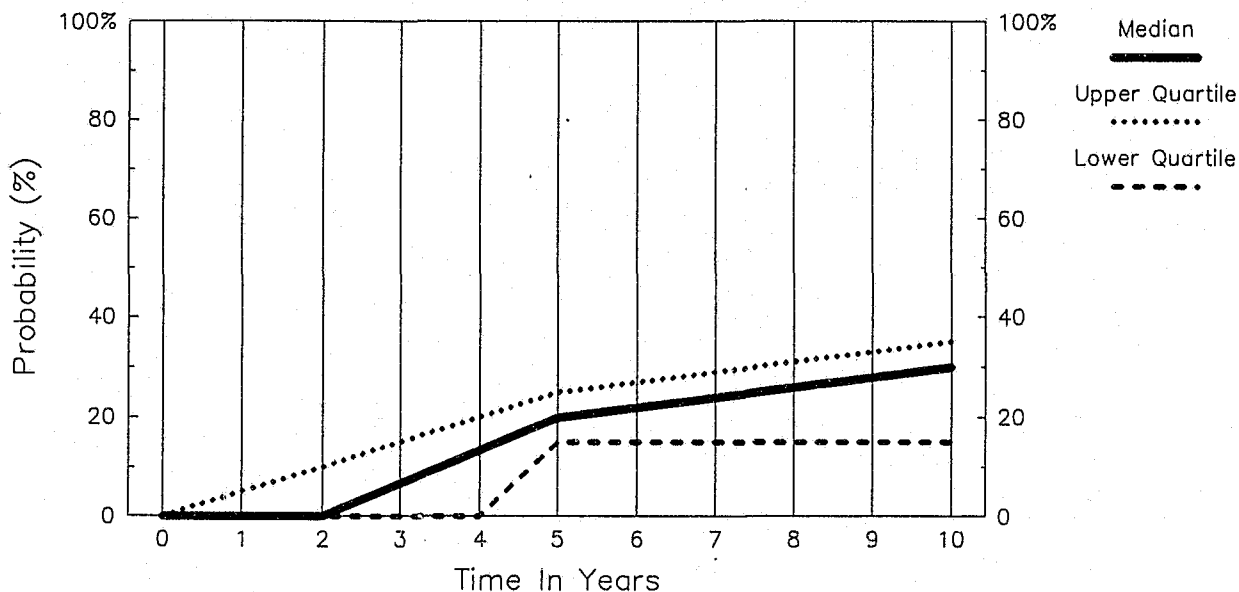
(40% probability). The low initial forecasting probability was due to the panel's reservations about difficulties associated with enforcing any sanctions related to a mandatory program. Virtually all panel members believed that a physical fitness program was very appropriate for sworn officers. At the same time, many members were convinced that 1990 ADA provisions would severely restrict not only any incentive or award provisions but any sanctions that were not job-related or consistent with a business necessity as well. The panel felt that **optional** wellness and fitness programs would become quite common but that **mandatory** programs would be resisted more than encouraged by police rank and file.

The panel was in agreement that a mandatory fitness program would be a very positive way to improve the sworn officer's quality of life, extend life expectancy on retirement, avoid mid-career disability retirements, and reduce health care costs. The negative impacts of a mandatory program included inviting confrontation with police union organizations and grievances from officers who were unable to qualify for incentives or able to avoid sanctions. The panel realized that there are many sworn police officers who are productive employees, rarely take sick time, and view a fitness program as an unnecessary and unwanted imposition.

Figure 8 (Event 3) reflects general panel pessimism that EEOC exemptions to current ADA guidelines are likely to occur. It is likely that the final version of the ADA represented considerable

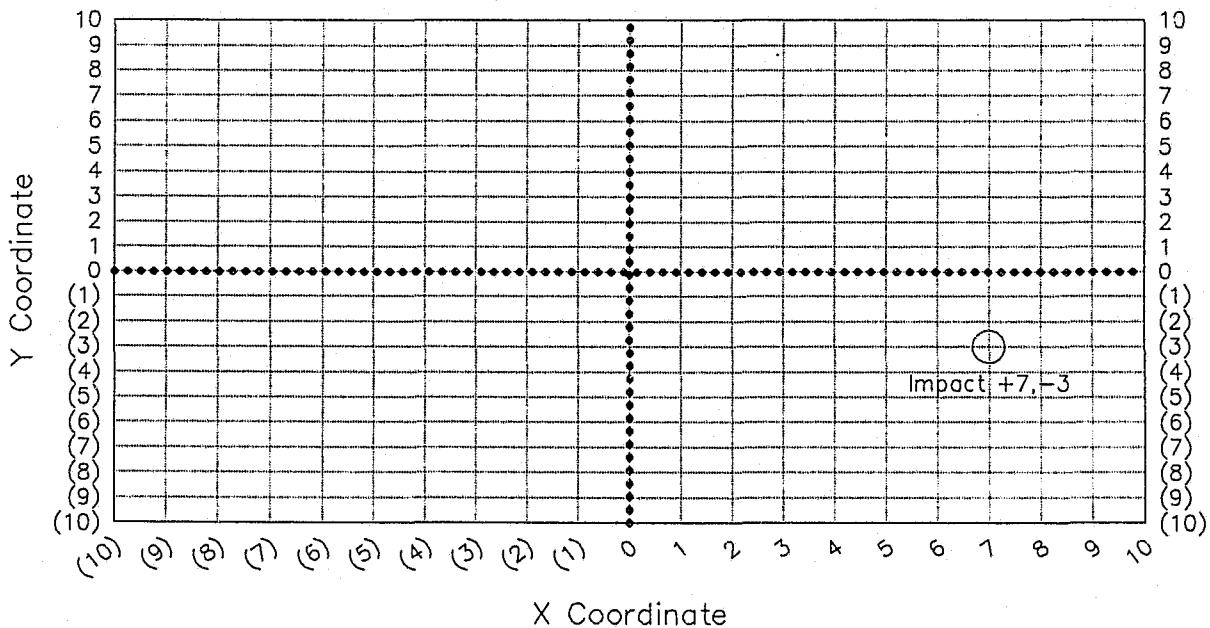
Figure 8

EVENT 3
EEOC Adopts Significant Exemptions
For Law Enforcement



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EVENT 3
EEOC Adopts Significant Exemptions
For Law Enforcement (Impact)



File:WEI3A1.CHT

compromise between political forces, advocates for the disabled, and private business. The median forecast of 30 percent probability at ten years is most likely due to panel belief that law enforcement agencies can make reasonable arguments of "undue hardship" for financial burdens under limited budgets. The accommodation of some disabilities will provide a "direct threat" to employees and citizens. Courts are generally sympathetic to "safety" concerns. The panel believed, however, that the ADA will receive considerable support and enforcement from the EEOC and will be unlikely to present significant exemptions for law enforcement.

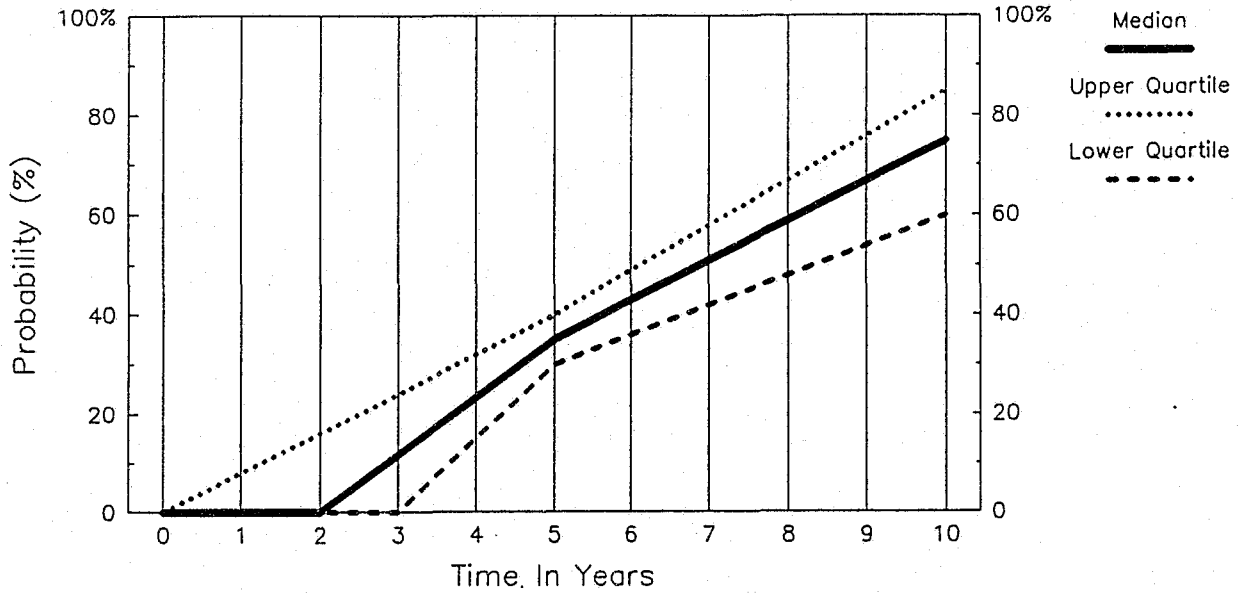
The impact of EEOC exemptions was rated as positive. The management of law enforcement employees can be particularly complicated. Exemptions that would reduce costs of screening applicants and restrict required accommodations to reasonable circumstances would preserve the public policy of the ADA without significantly reducing the ability of a department to meet critical staffing needs.

Figure 9 (Event #4) appears to represent an inconsistency with the panel forecast for Trend #1. The panel was asked, however, to forecast the future of modified-duty positions in a significantly different context under Event #4.

The panel was asked under Event #4 to forecast the probability that medium-sized (100 - 500 officers) police agencies would approve

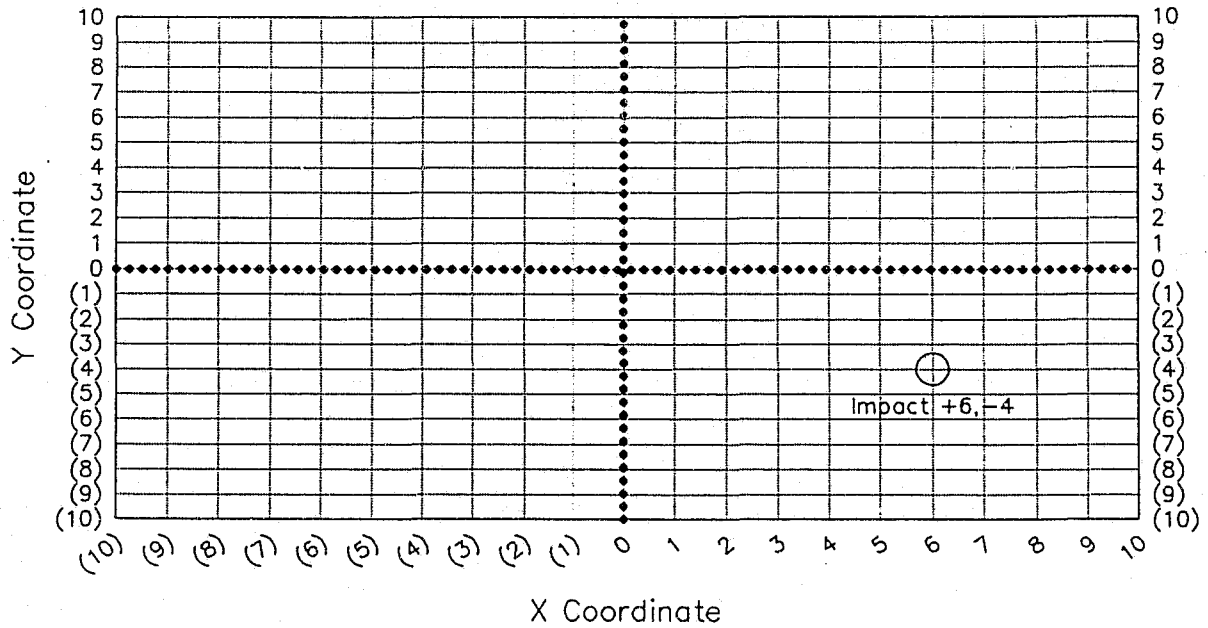
Figure 9

EVENT 4
Police Department Approves Permanent
Modified Duty Positions



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EVENT 4
Police Department Approves Permanent
Modified Duty Positions (Impact)



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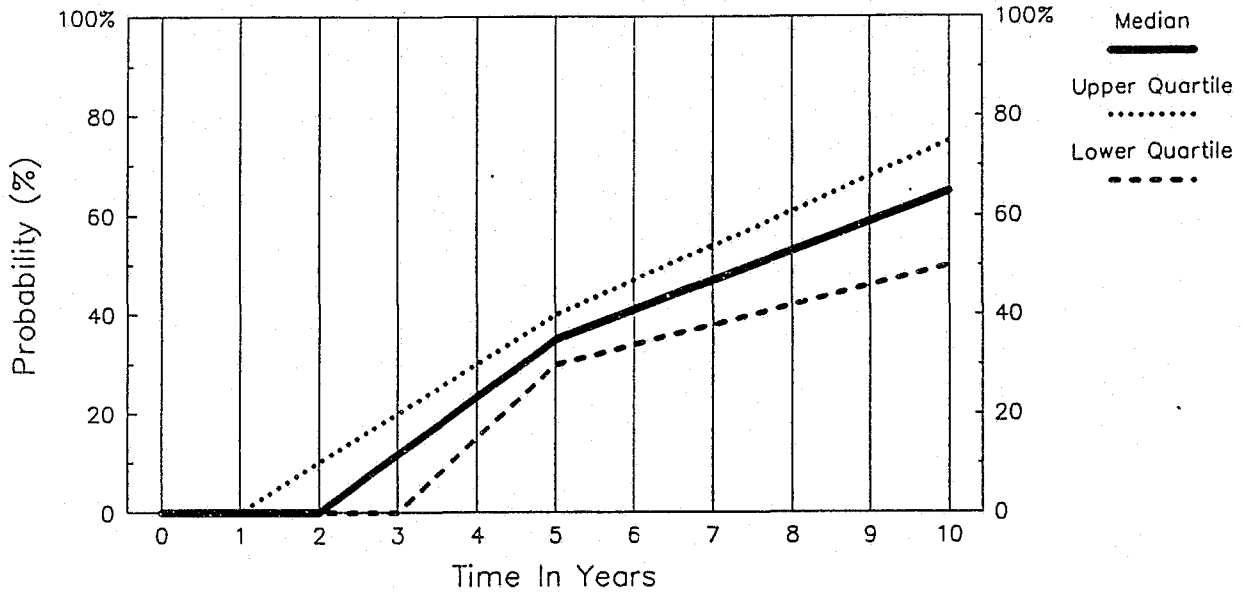
some form of modified-duty policy for permanently disabled sworn officers within the next five and ten years. This forecast was made with the understanding that the ADA will focus on essential tasks, reasonable accommodations, and a future that will encourage employment for disabled persons. Much panel thought continued to focus on the negative impact of reducing the sworn work force through the accommodation of modified-duty positions. Panel members reached consensus, despite these reservations, that medium-sized agencies, providing several specialty assignments (e.g., DARE Officer, Community Relations, Training, Investigations), will have a difficult time denying continued employment to an officer disabled on-the-job but still capable of performing specific essential job tasks. The key component of this forecast appears to be panel belief that agencies will develop, or negotiate, their own particular modified-duty policies to limit the number of positions the agency must accommodate.

Figure 10 (Event 5) indicates that the panel expected the adoption of Community Oriented Policing to maintain its increasing level of interest among police executives. The panel recognized that the concept has been studied and applied by police agencies on and off for twenty years. The steady increase in street-level violence and resulting citizen demands for police services has encouraged police executives to utilize Community Oriented Policing concepts to compensate for limited sworn staff levels. The panel was aware that crime rates were continuing to climb while municipal budgets,

in California, were continuing to decrease. Panel members understand that the traditional response to increased crime has been to ask for more police officers. This panel reached general consensus that most police agencies simply cannot hire police officers fast enough to react, in a timely fashion, to citizens calls for service. A primary element of Community Oriented Policing is a strategy of encouraging officers to identify the causes of crime problems rather than attempting to react to the symptoms. The significance of Community Oriented Policing to the ADA lies in the emphasis on innovation and the abilities to motivate citizens and community groups to become active participants in solving real problems. It is likely that disabled advocacy groups will look at the "essential functions" of the police officer position in a different context than police administrators.

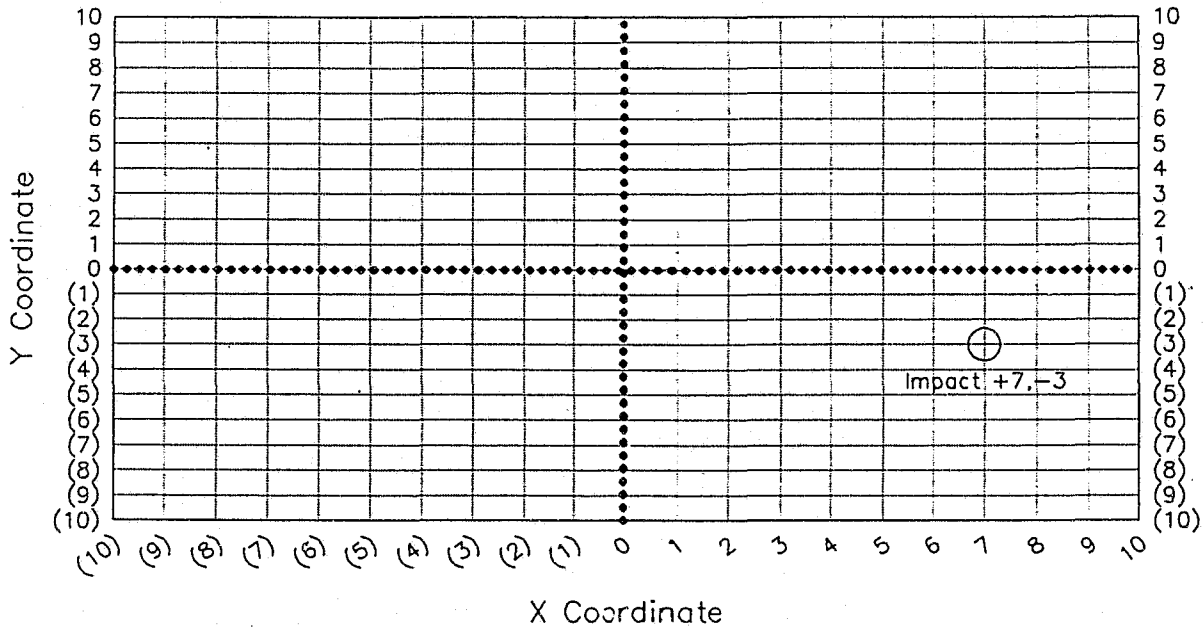
Figure 10

EVENT 5
Police Department Adopts Community Oriented Policing Style



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EVENT 5
Police Department Adopts Community Oriented Policing Style (Impact)



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PHASE IV

Cross Impact Analysis

The cross impact analysis examines relationships among events and trends.

The effect of an impacting event on an **impacted event** was rated in terms of positive or negative change in the **probability of occurrence**. The effect of an **impacting event** on a **trend** was rated in terms of the **change in the trend forecast**. The **impacting events** are also considered **actors** and the **impacted events** and trends are considered **reactors**. Each "hit" recorded on the table not only contains the estimated impact but also the number of years until maximum impact was expected to occur. The cross impact matrix was completed with the assistance of two law enforcement managers.

TABLE III

BASIC CROSS-IMPACT EVALUATION MATRIX

Impacting Event	Impacted Event					Impacted Trends					
	E-1	E-2	E-3	E-4	E-5	T-1	T-2	T-3	T-4	T-5	Total
E-1		$\frac{-20}{5}$	$\frac{-25}{6}$	$\frac{-25}{6}$	$\frac{-20}{5}$	$\frac{-30}{5}$	$\frac{+40}{3}$	$\frac{+60}{5}$	$\frac{+50}{6}$	$\frac{+30}{7}$	9
E-2	$\frac{+20}{4}$			$\frac{+20}{7}$		$\frac{-20}{5}$	$\frac{-40}{7}$	$\frac{+20}{7}$	$\frac{-50}{7}$	$\frac{-60}{6}$	7
E-3	$\frac{+20}{5}$			$\frac{+40}{6}$		$\frac{+30}{5}$	$\frac{-20}{5}$		$\frac{-25}{6}$	$\frac{-20}{6}$	6
E-4	$\frac{+10}{5}$	$\frac{+10}{5}$	$\frac{+10}{5}$		$\frac{+15}{5}$	$\frac{+60}{3}$	$\frac{-30}{3}$	$\frac{+40}{5}$	$\frac{-60}{6}$		8
E-5	$\frac{-40}{5}$		$\frac{+20}{5}$			$\frac{+40}{6}$		$\frac{+10}{5}$	$\frac{-15}{6}$		5
TOTALS	4	2	3	3	2	5	4	4	5	3	

LEGEND:

- E-1:** ADA accommodations drop agency morale to all-time low
- E-2:** Mandatory physical fitness program
- E-3:** EEOC adopts significant exemption for police
- E-4:** Police Department approves permanent modified-duty positions
- E-5:** Police Department adopts Community Oriented Policing

- T-1 -** Number modified-duty assignments
- T-2 -** Workers' compensation costs
- T-3 -** POA influence over assignments
- T-4 -** Frequency of industrial disability retirements
- T-5 -** Disciplinary action due to alcohol and/or drug abuse

Table III presents the consensus impact ratings that resulted from considerable discussion of the issues involved. Following is a synopsis of the findings of the interrelationships between each event and other events and trends.

Event #1, a significant drop in department morale, would be expected to have significant impacts on most other events and trends. If the morale drop was due to an ineffective response by management to EEOC guidelines, a mandatory physical fitness program would be very difficult to establish. Low morale would encourage employee friction and complaints. This is not an atmosphere that the department could expect exemptions from EEOC guidelines success in establishing permanent modified-duty assignments in special positions. Workers' compensation claims would increase, the POA would become more active in representing employee complaints, and mid-career disability retirement claims would be likely to increase.

Event #4, departmental approval of permanent modified-duty positions would also impact most other events and trends. It could have a positive impact on a morale drop, causing it to become even worse, if the policy was not handled properly. The policy would encourage the adoption of a physical fitness program as long as all employees, including those in modified-duty positions, could be included to avoid a discrimination claim under the ADA. The

recognition of permanent modified-duty could create a positive relationship with the EEOC and encourage some reasonable case by case exemptions.

The modified-duty policy would certainly increase the number of light-duty positions, and would be expected to decrease workers' compensation costs and disability retirements if the policy represented an up-grade in manager and supervisor training and awareness of the workers' compensation process. The policy would be expected to result in more frequent contact with the POA.

Event #2, a mandatory physical fitness program, has the potential of reducing necessary modified-duty assignments, workers' compensation and industrial disability costs, and employee drug and alcohol abuse.

Event #5, Community Oriented Policing, would be likely to correct a drop in employee morale and improve relations with the EEOC. The departmental atmosphere under Community Oriented Policing would encourage the number of modified-duty positions as various approaches to neighborhood problem solving expand. Positive interaction with the POA would be likely as organizational structure was adjusted in response to the new policing strategy.

PHASE V

Future Scenarios

An examination of the data allows the development of three potential future scenarios. The scenarios present an exploratory, a hypothetical, and a normative future. The exploratory scenario describes a future that is "most likely" to occur if current forces are allowed to take their expected courses. The hypothetical scenario describes a future that would exist if certain forecasted events occur and impact the described trends. The normative scenario represents a "best case" scenario of a future that is desired and reasonably attainable. The scenarios are not predictions but rather forecasts of the future based on projections of trends and events.

The following scenarios will be applied to a fictitious, medium-sized community identified as Contra Costa. The city is located within twenty miles of a large urban population center and would be considered a suburb. The population is approximately 112,000 and the city covers approximately 22 square miles. The population is predominately white with an hispanic minority of approximately 18%, an Asian population of 8%, and a black population of approximately 6%.

The city is governed by a strong city manager system but substantial political changes have occurred during the past five years. The City Council has just hired the fourth City Manager in four years and the fourth Police Chief in the last five years. Political tension is relatively high with council members polarized over several controversial issues. One current council member has been accused of sexual harassment of female city staff members and the former female city manager has filed suit against the council member. The police department enjoys strong community support despite being understaffed at a ratio of 1.2 officers per thousand residents. Response times for emergency calls average 7 to 8 minutes, but the department has had to give up assigning patrol officers to "cold" non-violent felonies and take many reports over the telephone or via mail. The police department has outgrown its facility and a new police station is in the planning stage. The police executive staff recognizes the need to plan for accommodation with the ADA but has not focused serious attention on specific issues other than selection standards.

Exploratory Scenario "Most Likely"

On January 20, 2002 the headlines in the Contra Costa Times read:

"New Police Chief Faces Many Challenges in Taking Helm of Troubled Department."

"EEOC to Conduct Further Hearings on Employment Discrimination Claims From Sworn Police Officers."

"Personnel Board Criticized for Failure to Control Escalating Costs of Police Disability Claims."

When Brad Robertshaw takes over as the new police chief in the City of Contra Costa on February 1, 2002, he will face a department struggling with budget, morale, and disciplinary problems that have tarnished the agency for several years. Robertshaw seems to be accepting the challenges with a very optimistic attitude and has assured the City Council that age-old difficulties with the police department can be resolved. Robertshaw is the third police chief hired within the last 6 years, and the mayor hopes that he will be successful where former chiefs have made only minimal gains. Former Chief Bill Bennett has been off the job for three months due to a stress leave and is retiring on a disability pension at the end of this month.

The Contra Costa Police Department suffers from a number of internal difficulties. The department has the highest turnover rate for any agency in the county. Internal sources indicate that the department loses many officers due to low morale and dissatisfaction by rank and file officers with staffing and assignment decisions made by former chiefs.

Personnel data and statistics paint a very bleak picture for the police department and help to explain the difficulties the city has voiced over recruiting qualified candidates. The authorized strength of the police department is 140 officers. At full complement, this would represent a ratio of 1.0 officers per thousand citizens in the city. The department would require a ratio of 1.4 officers per thousand residents to successfully establish a community oriented policing style and deal more effectively with ongoing community crime problems. Police chiefs have argued unsuccessfully for several years that sworn officer staffing levels are so low that they create an unreasonable hazard to officers, and citizens as well. The rate of violent crime has tripled in the city over the rate of 1992, but the authorized work force has remained constant.

The heart of the current morale problem appears to be bitter resentment from the rank and file Police Officer Association (POA) over the number of sworn officer positions that are occupied by officers in modified-duty assignments. In apparent compliance with EEOC directives, under the ADA, the police department has created twenty-eight modified duty positions. These positions are currently occupied by sworn officers who have been declared physically unfit for street level, uniformed assignments. The officers assigned to these positions represent 20% of the authorized sworn work force and are not only unavailable for basic patrol assignments but are occupying jobs that the rank and file

consider premium, specialized positions. Modified-duty assignments currently exist in investigations, training, crime analysis, and administrative staff positions.

EEOC hearings have been occurring frequently over the last two years. Officers disabled due to job related injuries have found themselves in a "Catch-22" between a Personnel Board that is resistant to awarding disability retirement pensions and a police department that claims to be saturated with an excessive number of sworn officers in modified duty positions. Despite periodic media exposure of safety disability retirement system abuses, the Personnel Board continues to award disability pensions to officers injured on the job. Most of these recent awards occurred after successful lawsuits and extended litigation instituted by disabled officers. Current data shows that 75% of police officers on retirement are receiving a disability pension. Many of these officers retired mid-career and the trend has contributed significantly to the PERS retirement system unfunded liability.

Former Chief Bill Bennett is claiming that stress directly related to ADA requirements and staffing shortages resulted in his heart attack in June of last year. The new chief, Robertshaw, implies that a high turn-over in the police chief position has impeded successful planning and policy development to deal with demands under the 1990 ADA. Robertshaw is confident that a strategic plan

can be developed to correct staffing deficiencies and improve police services.

Hypothetical Scenario - "What if..."

On February 20, 2002 newspaper headlines in the Contra Costa Times read:

"Police Department Crisis, Chief's Termination Inevitable Over EEOC Discrimination Suit?"

"Public Employees Retirement System Requests Conservatorship. Police Retirements at Risk?"

"Grand Jury Indicts Two Contra Costa Officers for Theft of \$250,000 in Cocaine From Police Property Room."

Contra Costa Police Chief Brad Robertshaw has declined to comment on information from city hall that his job is in serious jeopardy. A recent award of \$200,000 to a retired police department lieutenant who sued successfully to return to his old position has angered the Chief and further confused issues surrounding the city's legal obligations to accommodate officers disabled due to job-related injuries.

Former police lieutenant, Fred Coal, was granted an industrial disability retirement after two years of often bitter hearings. Coal filed for retirement after medical reports indicated that cumulative injury to his lower back and job stress rendered him unable to perform the normal duties of his job as administrative

personnel lieutenant. Allegations during the hearings implied that the Chief and City Personnel Director considered the claims fraudulent. Coal sued successfully to prevent the Chief from assigning him to a modified duty position arguing that the modified-duty position did not provide full employment benefits, including promotional opportunities available to other lieutenants.

After obtaining a 50% tax free disability retirement pension, Coal surprised the City by demanding his old job back, four years later, claiming that his disability injury had improved. When the EEOC ruled that Coal had a right to his job back if he did not qualify for his disability pension, Chief Robertshaw conditioned his return on a complete background check and polygraph examination. Coal filed suit, claiming that the polygraph was discriminatory. Last Tuesday's ruling by the First California Appellate District Court agreed with Coal's argument and requires the city to reinstate Coal to a vacant lieutenant's position without the polygraph examination and awards standard EEOC penalties and damages totaling \$200,000.

The ruling represents the latest in a series of unusual state and federal court decisions expanding the rights of disabled police employees. The city and police department have experienced serious difficulties maintaining an adequate level of qualified police officers for field services duty. A growing economic crisis with the California Public Employees Retirement System pension plan has threatened to collapse the second largest public safety retirement

system in the country. A dramatic increase in job-related injuries and stress-related disability claims from sworn officers has combined with the **1990 Americans With Disabilities Act** accommodation requirements to increase the percentage of officers occupying modified-duty positions to 30% of the work force.

The Police Officers Association has blamed the staffing shortages on poor strategic planning by Chief Robertshaw and holds him personally responsible for the rise in injuries to uniformed officers who claim to be required to consistently respond to dangerous incidents without adequate back up from fellow officers who are tied up on other emergency calls. The Chief has responded that his worst case forecast of five years ago has occurred with his best management intentions becoming impossible to attain due to unexpected EEOC requirements to accommodate officers physically and/or psychologically unqualified to perform police duties.

The Chief's projections five years ago that the **ADA** protection of rehabilitated drug abusers was a time bomb waiting to go off appears to have been an unfortunately accurate forecast. In the face of a severe department morale problem, a staff shortage of physically and psychologically fit officers, and a safety retirement system in financial crisis, the department was further staggered with last week's grand jury announced indictment of two officers for the theft of \$250,000 in cocaine from the department property room. The Chief revealed that one of the officers,

Leonard Costa, sued successfully three years ago to force his hiring after the background investigation discovered a history of cocaine abuse.

An EEOC hearing panel ruled that Costa had successfully completed a voluntary, private drug rehabilitation program six months before applying for a position with the Contra Costa Police Department.

Chief Robertshaw had hinted, six months ago, that he was planning to retire due to health reasons. These latest developments may cause him to revisit those plans.

Normative Scenario - "Desirable and Attainable"

On February 20, 2002, the headlines in the Contra Costa Times read:

"State of California Controller's Office Reports Public Pension System Finally Under Control."

"Disability Retirements of Public Safety Officers Reaches Ten Year Low."

"New Police Facility Receives Compliments From Disabled Citizens Task Force For Program and Service Accessibility."

The California State Controller's Office confirmed today that the \$34 billion unfunded liability of public pension retirement funds that existed ten years ago has finally been reduced to an acceptable level of \$5 billion. State actuaries are comfortable with

this figure and claim that it represents a healthy trend towards a balanced public pension system. The reversal in this state budget crisis that reached its peak in 1995 is attributed, in part, to state legislative changes in the California Labor Code and Government Code regulations. The legislative changes have had a dramatic impact on the public safety retirement system. The pension system that was criticized so bitterly by taxpayers ten years ago for reported poor management and invitations to abuse has benefited dramatically from reform. Industrial disability pensions for safety officers are now applied fairly and equitably.

Rehabilitation of police officers and fire fighters is much more successful than it was ten years ago. Disability retirement ratios for larger safety agencies now average 15 - 20% of total retirement rather than the typical 75 - 80% of the early 1990's.

Administrative reform at the state and local levels has centralized responsibilities for referral, coordination, consultation, and record keeping for disability programs. A comprehensive training program for City of Contra Costa police and personnel managers and supervisors has improved employee morale and procedures for the initial treatment of injured police officers. Stress disability claims that were commonplace ten years ago have been reduced to 10% of the total annual claims in 1993.

The reduction in police industrial disability claims was a prime topic of discussion during the grand opening ceremonies and reception that followed the dedication of the new 73,000 square foot police facility on Galindo Street in downtown Contra Costa. During the reception, that was held in the spacious front lobby and adjoining community room yesterday, representatives from the County Disabled Citizens Task Force complimented the City of Contra Costa on the design features of the new police facility that made disabled citizens feel welcome. A number of improvements, including physical as well as program designs, make it much more convenient for disabled citizens to receive police services.

Chief Robertshaw commented during the opening ceremony that a departmental commitment six years ago to comply with both the letter and spirit of the **1990 ADA** has resulted in valuable organizational input into the design of the new police facility. A commitment in 1996 to accommodate not only qualified disabled police applicants but officers disabled on the job, as well, led to a comprehensive training and policy development process that improved police officer fitness, accelerated rehabilitation of job related injuries, and maintained a reasonable number of productive modified duty assignments to keep valuable officers on the job while their injuries heal. Chief Robertshaw reports that, while researching ways to accommodate their own disabled officers, the department developed a healthy respect for the needs of the disabled citizens they serve.

PHASE VI

Policy Identification and Analysis:

Three additional police managers assisted in the development of relevant policies. (See Appendix F.) Four policies were identified, through use of a modified policy delphi, as being relevant to the exploratory scenario. These policies were identified as likely to mitigate undesirable futures.

Policy 1: The Police Department will establish a Claims Validation Unit charged with investigating disability claims and providing relevant information to city agencies responsible for dealing with workers compensation, rehabilitation, and pension claims.

Policy 2: Officers disabled due to injuries or illnesses will be accommodated in a reasonable number of permanent modified-duty assignments, consistent with their physical and mental qualifications and in compliance with rehabilitation and employment requirements under the 1990 Americans With Disabilities Act.

Policy 3: The polygraph and psychological screening examinations will be administered to entry level police applicants sufficiently early, following conditional offers of employment, to provide for the selection of the most qualified candidate.

Policy 4: The department will institute an employee wellness and personal fitness program that will establish minimum fitness standards for sworn officers and mitigate physical and psychological stresses of the job.

Policy Impact: With the assistance of the same three police managers, the policy statements were applied to the exploratory scenario after rating the policies against selected trends and events. The cross impact matrix was used for this application. The results are shown in **Table No. IV.**

TABLE IV

Cross Impact Analysis of Policies

MAXIMUM IMPACT (% CHANGE +/-)										
	E1	E2	E3	E4	E5	T1	T2	T3	T4	T5
P1	-15	+20	+30	+30	-20	+20	-75	+10	-60	+10
P2	-20	+20	+10	+90	+10	+20	-20	+10	-20	-15
P3	-25	0	-10	0	0	-20	-30	0	-20	-50
P4	-20	+80	-10	+10	+10	-10	+5	+20	-25	-15

LEGEND:

- P1 - Claims Validation Unit established
- P2 - Reasonable number of permanent, limited-duty positions
- P3 - Polygraph and psychological screening of maximum number of qualified candidates
- P4 - Employee Wellness and Fitness Program

- E1 - Substantial drop in employee morale
- E2 - Mandatory Physical Fitness Program
- E3 - EEOC adopts significant exemption for police
- E4 - Police Department approves permanent modified-duty positions
- E5 - Police Department adopts Community Oriented Policing

- T1 - Number of modified-duty positions
- T2 - Workers compensation costs
- T3 - Influence of P.O.A. on management decisions
- T4 - Mid-career disability retirements
- T5 - Formal disciplinary actions related to drug and alcohol abuse

Exploratory Scenario With Policy Applications

On January 15, 2002, news headlines in the Contra Costa Times read:

"City of Contra Costa Receives State Recognition For Reductions in Police Disability Retirement Rate."

"Police Physical Fitness Program Credited With Reducing Job Stress and Sick Leave."

An aggressive management program instituted by Chief Brad Robertshaw six years ago is credited with maintaining police disability retirement rates at acceptable levels and promoting physical and mental fitness of sworn officers. A representative of the California Public Employees Retirement System addressed the City Council at their Tuesday evening meeting and presented Chief Robertshaw and Personnel Director Betty Marino with a certificate of achievement recognizing the maintenance of the very low rate of 7% for police disability retirements over the past three years. The Mayor credited Chief Robertshaw with effective management of the human resource challenges presented by the 1990 Americans With Disabilities Act and an increasingly hazardous police working environment in the city.

When Chief Robertshaw was hired as police Chief in 1996, the department suffered from a severe morale problem. Staffing limitations were exaggerated by a policy to protect injured officers with permanent modified-duty assignments, and 75% of the retired officers were receiving disability pensions. The Chief

made the corrections of staffing deficiencies and reform of disability retirement abuses his top priorities.

Chief Robertshaw immediately negotiated an agreement with the police officers' bargaining unit to limit the number of permanent modified duty positions to five. The department continued to authorize temporary modified-duty positions, but limited their duration to six months. The five permanent modified-duty positions allowed the department to reach an agreement with the EEOC that the accommodation of any additional permanent modified positions would create an undue hardship, under current staffing and work demand circumstances. When Chief Robertshaw was hired, the department had 23 officers assigned to permanent modified-duty positions. Today that number has been reduced to five through rehabilitation, service, and disability retirements. The Chief credits a mandatory physical fitness program and productive attitude of police and personnel office employees with reducing disabling injuries. Personnel Director Betty Marino agrees that the fitness program has been of value but reports that the decision by Chief Robertshaw to staff a Claims Validation Unit was the turning point on what she claims was a potential crisis situation six years ago.

Ms. Marino credits the Chief with recognizing that conflicts over accommodations imposed by the 1990 Americans With Disabilities Act and abuses of the PERS disability retirement program were due to inadequate training and expertise of police managers and supervisors. Police managers were generally unaware of their

responsibilities toward disabled officers and staff members responsible for aiding the disabled to return to work were not adequately trained for their jobs.

The police department Claims Validation Unit was formed in order to ensure that police employees received the benefits they were entitled to and to reduce alleged abuses of the system. The program has become a model for other medium-sized police agencies to copy and is responsible for saving the city an estimated \$7.5 million over the last four years. As Ms. Marino states, "The Chief likes to promote the department's fitness program but it is the Claims Validation Unit that has allowed us to maintain control over workers' compensation and disability retirement costs." The Claims Validation Unit is staffed by one full-time and one half-time officer who works closely with a personnel department programs analyst. The unit reviews, monitors, and investigates all police department injury claims and provides appropriate assistance to disabled officers. The Contra Costa Police Department has managed to maintain a high level of employee morale despite continuing budget limitations. A considerable investment in managerial and supervisory training has more than paid for itself in reducing costs associated with mid-career disability retirements.

A city commitment, two years ago, to comprehensive polygraph and psychological examinations for qualified, police, entry-level applicants has also paid large dividends. Two years ago the Chief convinced the city to provide sufficient funding to conduct

polygraph and psychological examinations on larger numbers of qualified candidates. The police department now prioritizes the pool of qualified entry level candidates that have received conditional job offers under **1990 ADA** guidelines. The top group within the qualified pool is screened further, using the polygraph and psychological examinations. The police department's prior policy was to administer polygraph and psychological exams as a final step before actual selection. The current policy encourages contract psychologists to provide a much broader assessment of the candidate's ability to survive the physical and psychological stress of police work. Recruit retention rate has increased substantially and the department feels that it is able to select the best candidates rather than those only minimally qualified.

CHAPTER II

STRATEGIC MANAGEMENT PLAN

- * Mission Statement
- * Situational Analysis
- * Stakeholder Analysis
- * Alternative Strategies

STRATEGIC MANAGEMENT PLAN

The futures study was intended to forecast the impact of future events on trends relevant to the effects of disabled employees on the management of human resources by the year 2002. The passage of the **1990 Americans With Disabilities Act** is already having a significant effect on the selection standards for entry-level officers. An examination of relevant future trends indicates that the most complicated and challenging effects of the **ADA** will be seen in the accommodation of sworn officers disabled on the job. Forecasts indicate that police department requirements to accommodate qualified disabled officers with modified duty assignments will conflict with limited budgets and demands for more sworn officers in the field. Workers compensation and industrial disability costs for sworn officers are forecast to threaten to bankrupt the public pension system if remedial steps are not taken. Efforts to reform the police industrial disability system have been historically unsuccessful, but it is clear that some form of local proactive planning is required to avoid a number of very undesirable futures. For purposes of this study, the strategic plan will be applied to the exploratory scenario described in the preceding futures study. The plan will be based on characteristics of the fictitious Contra Costa Police Department.

An effective strategic plan begins with the development of a macro and micro mission statement.

I. POLICE DEPARTMENT MISSION

MACRO MISSION STATEMENT

The mission of the Contra Costa Police Department is to provide the highest level of law enforcement services available to the citizens of Contra Costa. The members of the department are committed to protecting the life and property of all persons within our community and recognize our obligation to accomplish our mission within constitutional guidelines.

MICRO MISSION STATEMENT

We support the public policy detailed in the **1990 Americans With Disabilities Act** and welcome the desire of qualified disabled citizens to become honored members of our Department. We respect the values our disabled employees place on being part of the mainstream. We recognize that all of our employees value recognition for competence, respect, personal choice, and involvement at work well above financial security. We are dedicated to effectively promoting diversity in our Department. Our goal is to work as partners with all members of the community to improve the quality of life for us all.

II. SITUATIONAL ANALYSIS

The achievement of the mission will require a planning process that develops strategies based on careful analyses of the environment and organizational capabilities. It is appropriate to analyze the environment in terms of **opportunities** that will support the accomplishment of the mission and **threats** that will block this effort. Organizational capability will depend on its present **strengths** and **weaknesses**.

A. Environment:

The future forecasts for the year 2002 indicates that law enforcement personnel practices will continue to face dramatic and complicated challenges in the face of continued reductions in available public sector funding.

Opportunities:

The implementation of the 1990 **Americans With Disabilities Act** on July 26, 1992 has been viewed with some trepidation by law enforcement executives. While the act has raised concern over the disruption that employee accommodations are expected to have in police work places, a number of opportunities are also apparent.

The elimination of minor disabilities such as correctable visual acuity and hearing as well as minimal back deformities has begun to broaden the recruitment pool of qualified police candidates. As police agencies are required to consider reasonable accommodations for disabled applicants, the range of qualified entry-level candidates will continue to broaden. These opportunities will be especially welcome in light of a reduction in the number of adults in the 16 - 24 year age group expected in the year 2002.

The ADA will also create incentives and opportunities to accommodate experienced sworn officers who suffer disabling injuries on or off the job. The escalating costs associated with law enforcement disability retirements are forecast to result in restrictions on full disability pensions. As sworn police officers find it more difficult to qualify for disability pensions, the ADA may provide the incentive for partially disabled employees to seek job accommodations for continued employment.

Despite a steady increase in violent crimes, the Contra Costa Police Department is still able to maintain reasonable response times to priority calls and a recent community survey indicated a citizen satisfaction level of 86%.

Despite substantial negative impact from a national economic recession, the community has plenty of room to expand in the commercial downtown area. Rapid economic recovery and increased sales tax revenue are likely to result from planned downtown

redevelopment. Demographic shifts from concentrated urban centers in San Francisco and the East Bay are forecast to result in continued movement of large corporate offices to suburban county locations.

Technological advances in the areas of laptop personal computers with pre-written report formats are expected to provide accommodations for minor communication disabilities. This expansion of personal computers has also increased the opportunities for telecommuting among temporarily and partially disabled employees.

Threats:

A substantial consensus is generally found both in the readings and NGT discussions that economic limitations are presenting the primary environmental threats to achieving the mission. Forecasts are for dramatic reductions in tax fund resources over the next two to three years and an eventual, but gradual, economic recovery taking several years. Several experienced public administrators are forecasting that most police agencies will never actually return to providing all of the traditional services that are likely to be eliminated during the next two to three years.

While the Americans with Disabilities Act presents many opportunities, it also threatens to require tremendously expensive police

personnel, staff, and management attention. Former drug addicts who have undergone successful rehabilitation programs are protected. Law enforcement agencies are still allowed to disqualify candidates with a history of drug abuse, but these standards must be job-related and relevant to an acceptable business necessity. The ADA poses the threat that police agencies will be unable to disqualify many high risk candidates. The consequences of hiring prior drug abusers as police officers have been documented extensively and are expected to result in expensive allocations of resources to supervise, investigate, and discipline an increasing number of police officers who would not have been hired under traditional selection standards.

One of the primary changes imposed by the ADA is the protection of mental disabilities as well as physical. Mental conditions included within the meaning of "disability" under the ADA include: Mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.⁴¹ Where these mental disabilities prevent a candidate or sworn officer from performing the essential functions of the job, he or she will be disqualified if reasonable accommodations are not available. The more common concerns for police agencies are psychological conditions that are evaluated as personality traits. Personality traits such as poor judgement, irresponsible behavior, and poor impulse control are not considered a disability under the ADA unless they are symptoms of a mental disorder.⁴² This protection makes psychological screening

an even more important part of the selection process. Budget limitations and the expenses of psychological service have influenced many medium-sized agencies to schedule the psychological screen at the conclusion of the selection process. The psychologist is thereby encouraged to determine, simply, whether the otherwise qualified candidate meets minimum standards. This approach reduces the department's ability to identify candidates who may be susceptible to the effects of stress.

Police disability retirement system and health plan costs are increasing at alarming rates. In some California police agencies, 75% of the officers who qualify for pensions are collecting disability retirements.⁴³ Many of these officers are collecting 50% salary retirements prior to age 40. These retirement costs are tremendously expensive and are ultimately reducing the number of officers an agency can afford to employ. It is likely that the increased employment of minimally qualified sworn officers, with existing physical and mental disabilities, will threaten the ability to reduce the number of costly disability retirements.

The increase in violent crime is expected to pose a number of threats beyond the obvious concern for officer safety. As officers are required to face more frequent, high risk circumstances, the hiring and/or retention of sworn officers with even minor physical or mental disabilities may increase the frequency of the use of lethal force. The increased use, or threatened use, of lethal force

by police is expected to result in increased civil liability exposure and public criticism of police actions. The repeated exposure to high risk circumstances is also likely to increase the number of stress related, disability claims.

The inability of worldwide health resources to control the AIDS epidemic also threatens our mission. AIDS is an **ADA protected** disability and police agencies will be required to accommodate AIDS victims until they are unable to perform essential functions of the job. AIDS, as do many other disabilities, may require agencies to identify or develop permanent modified-duty assignments. The development of permanent modified-duty assignments has been resisted by police union organizations. A modified-duty assignment generally results in removing a premium job position from the number of rotation assignments available to the sworn work force. The police union is likely to attempt to place barriers in the way of accommodating disabled employees.

B: Organizational Capability:

The organization's capability to deal with environmental opportunities and threats will depend on its present **strengths** and **weaknesses**.

Strengths:

The Contra Costa Police Department has enjoyed a strong recruitment base and has a history of successfully attracting high-caliber entry level candidates. The Department retains well-trained officers throughout the ranks. A substantial number of new officers join the Department after successful experiences of three to five years with other agencies throughout the state. The work force is energetic, and the management staff is well-trained and capable. Recent budget reductions resulted in several senior staff members taking advantage of early retirement offers and two out of three commanders and several mid-mangers have been only recently promoted. The current Chief has been with the Department for three months and has brought the value of many years experience with police agencies considerably larger than his current assignment.

The Department is accepted well by the community and receives a minimum number of citizen complaints. The Department's attitude toward training is very positive, and the members demonstrate appreciation towards all forms of work force diversity.

A mandatory assignment rotation plan applied to all special assignments maintains an adequate range of lateral career opportunities. Attrition rates among all ranks has resulted in regular promotional opportunities. Normal retirements at age 50 or 55 are more common than mid-career disability retirements. The work force participates in a voluntary, City sponsored, Wellness Program and regular exercise is common during lunch breaks.

Weaknesses:

The Police Department has suffered some serious financial impact from the City's desire to maintain the same level of police services in the face of steady reductions in revenue sources. In 1991-92 the City suffered a \$4.5 million (10%) budget short-fall, resulting in a loss of 23 sworn and non-sworn positions in the Police Department work force of 200 employees. The 1992-93 fiscal outlook does not appear to be improving and similar budget deficits at the state level are expected to be passed on to the County and, eventually, to the City. It is quite likely that further police services will be eliminated and additional personnel reductions may occur during the next two years. Most of the position reductions have involved civilian support staff positions, but sworn positions in investigative and administrative divisions have also been eliminated. Further elimination of staff positions will threaten the Department's ability to monitor personnel compliance with ADA requirements, provide additional training, monitor performance deficiencies, and investigate internal affairs complaints.

Contra Costa is one of the few California cities that does not belong to the state Public Employees Retirement System. The City is self-insured and its disability and normal retirement system is handled by Mutual Benefit Insurance Corporation. Mutual Benefit placed itself into conservatorship in July, 1991 after its investment portfolio suffered heavy losses in the real estate

categories. The City's plans to join PERS have been blocked by Mutual Benefit's financial problems. The City's disability retirement program is considered very weak by employees and is regularly the subject of labor negotiations.

Additional weaknesses include a very small and outdated police facility. Conference and interview space is very limited; heating and air conditioning breakdowns are regular events. Access for disabled employees and citizens is limited. Strong Council and City Manager support for a new police facility are being stymied by the economic recession and revenue deficiencies. Employee morale is suffering due to the poorly maintained and undersized working facility.

III. Stakeholder Analysis:

Stakeholders are individuals or groups who impact what the organization does, are impacted by its actions or care about what the agency does. The term "snaildarter" describes an unanticipated stakeholder who can radically impact agency strategy. Any change strategy must be based on assumptions about the stakeholders in order to be successful. Each stakeholder is unique in terms of purpose, will, and resources. Following is a list of key stakeholders and the assumptions it is believed they hold regarding the impact employees with disabilities will have on the delivery of police services by the year 2002.

A. City Manager:

Assumptions:

1. A high priority on compliance with the Federal ADA provisions.
2. Once the City is effectively on notice of ADA provisions, he will expect that the Police Chief will make provisions in his budget to deal with the personnel impacts.
3. Women and minorities have been very successful additions to police work and there is every reason to believe that qualified individuals with a disability can also contribute substantial benefits to our police department.

B. The Police Chief:

Assumptions:

1. Many of the ADA demands are unrealistic and the agency will search for exemptions and clarifications on vague areas.
2. He will be frustrated by the conflict between the personal liability for failing to hire a qualified

individual with a disability and the duty to eliminate those officers who are unable to safely perform their job.

3. He will be very uneasy about hiring individuals with a prior history of drug abuse or psychological disability.
4. He will be likely to believe that permanent modified-duty positions should be prohibited as too expensive and generally unfair to other sworn officers.

C. Police Officers Association Board of Directors:

Assumptions:

Regarding Command Staff And Agency Managers in Own Organization:

1. The command staff will protect their own interests in accommodating disabled employees and will not appreciate concerns of the line officers.
2. Managers favor rotational specialized assignments but wouldn't hesitate to create unfair permanent modified-duty position for a personal favorite.

3. The managers are suspicious of claims regarding job stress and "bad back" disabilities.

D. Equal Employment Opportunity Commission:

Assumptions:

1. The rights of the country's 43 million disabled individuals have largely been ignored under the 1973 Rehabilitation Act. The 1990 Americans With Disabilities Act provides the means for forcing employers to comply with basic civil rights.
2. Disabled individuals have every right to enter the mainstream of American life, including sworn police positions if otherwise qualified.
3. Municipal agencies find the EEOC inflexible, complicated, intimidating to work with, and executive officers must be threatened by lawyers and the EEOC into compliance.

E. City Personnel Director:

Assumptions:

1. The Police Department does not have the expertise to appreciate the liability and duty to accommodate qualified individuals with a disability.
2. The Police Chief has a tendency to exaggerate what are considered essential functions of the sworn police officer's job.
3. The Police Chief does not tell the Personnel Director everything she has a right to know about internal police personnel practices.

F. Disability Retirement Administrator

Assumptions:

1. Most law enforcement disability claims relate to back, cardiovascular, and stress issues and many are fraudulent.
2. Coverage exclusions for pre-existing disabilities are necessary to control insurance costs under ADA requirements.

3. Special interest legislation combines with court and tax rulings to invite abuses of the police disability retirement programs.

G. Disability Advocate Groups:

Assumptions:

1. The disabled have been generally ignored by police employers who consider the sworn officer's job an elite club for authoritarian, white males.
2. The disabled do not want to be treated and accommodated as special persons - they want to be accepted as equals in any occupation they are qualified for.
3. They are frustrated and tired of being excluded from positions by employers claiming that their disability places them at a higher risk of future injury.

H. Police Psychologists:

Assumptions:

1. Many individuals are disabled psychologically as a direct result of police job pressures.

2. Psychologists can predict with considerable accuracy which applicants will not be successful at meeting minimal police performance standards.
3. Applicants with a history of drug abuse are at a very high risk of performing ineffectively as police officers.

I. California Commission on Peace Officer Standards and Training (POST):

Assumptions - Regarding Expected ADA Compliance by California Police Agencies:

1. Maintaining compliance with the ADA and police entry level standards will require police agencies to work hard to develop their own essential job function criteria.
2. Many agencies will not develop the expertise to participate effectively in the process for selecting entry level candidates and will defer to City Personnel Departments.

J. City Risk Manager (Loss Control And Employee Benefit Claims Manager):

Assumptions:

1. Police managers and supervisors are frequently unaware of their responsibilities toward disabled officers and are inadequately trained to help the disabled return to work.
2. Most of the officers who have retired on stress disabilities could be working today if the employee had been treated differently, by the employer, when the symptoms were first reported.

Snaildarters:

1. Media Representatives:

The media is generally looking for a good story line and the police agency can expect critical news coverage from a number of different angles. News coverage that questions the actions of the Police Chief results in intense pressure from the City Manager and Council members.

2. City Attorney:

The City Attorney and the Police Chief should have many opportunities to communicate and coordinate responses to ADA directives. Many of the EEOC guidelines are so vague that disagreements over strategies and interpretations are bound to occur.

3. Taxpayer Advocacy Groups:

Taxpayer groups have been very critical of alleged financial abuses in the public sector. They have periodically been able to use the news media to focus considerable local negative attention on the City Council, City Manager, and Police Chief's efforts to keep enough police officers on the street.

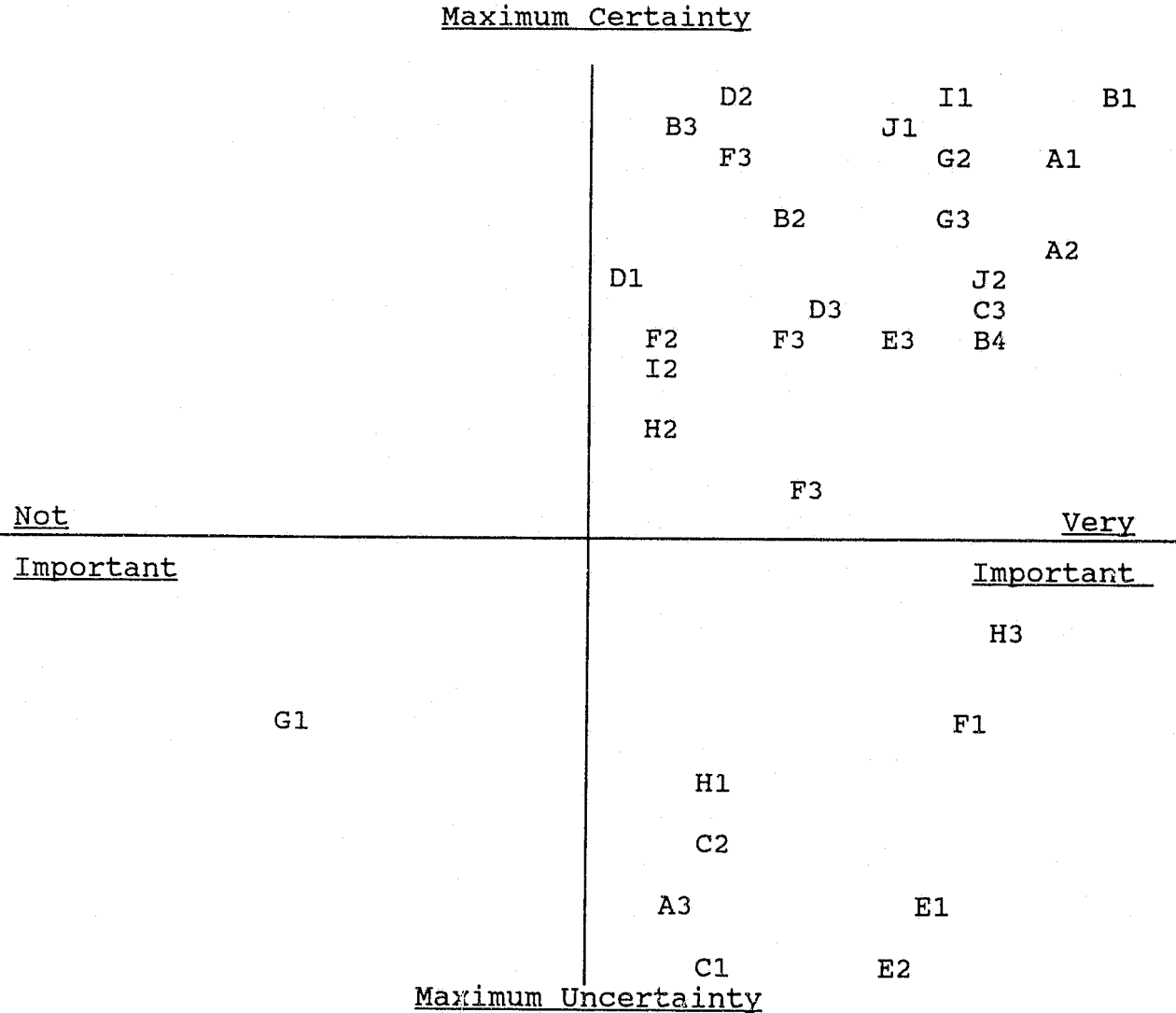
ASSUMPTION MAP

The assumptions attributable to each stakeholder were analyzed relevant to their impact on the mission. Each stakeholder assumption was mapped on a chart containing four quadrants. See Figure 11, Assumption Map. Placement on the grid was determined by the relationship between the degree of certainty that the assumption was true and the level of importance relevant to the mission. The map is designed to be a visual tool to assist in determining the relationships between stakeholders. The criteria

for plotting the map include (1) the **importance** of the stakeholder's assumption to the organization and issue (this estimate is indicated on the horizontal scale); and, (2) the degree of **certainty** that the researcher attributes to the assumption being correct. Maximum certainty means that there is a 100 percent probability that the particular assumption is correct. Maximum uncertainty indicates that there is an **equal** chance that the assumption is correct or incorrect.

Figure 11

STRATEGIC ASSUMPTION MAP



STAKEHOLDERS

- | | |
|---|----------------------------------|
| A - City Manager | F - Disability Insurance Carrier |
| B - Chief of Police | G - Disability Advocacy Group |
| C - POA Board of Directors | H - Police Psychologist |
| D - Equal Employment Opportunity Commission | I - POST |
| E - City Personnel Director | J - Benefit Risk Manager |

STAKEHOLDER ASSUMPTIONS

- A1 Compliance has high priority (City Manager)
- A2 Police budget to cover expenses (City Manager)
- A3 Women and minority police, history of success (City Manager)
- B1 ADA demands unrealistic (Police Chief)
- B2 ADA liability for chief (Police Chief)
- B3 Candidates with prior history of drug abuse (Police Chief)
- B4 Permanent modified-duty positions are too expensive (Police Chief)
- C1 Command staff unfair (Police Officers' Association)
- C2 Favorites granted modified-duty positions (POA)
- C3 Managers suspicious of disability claims (POA)
- D1 ADA necessary to force fair treatment (EEOC)
- D2 Disabled should have access to sworn police positions (EEOC)
- D3 Police executives must be threatened into compliance (EEOC)
- E1 Police managers lack personnel experience (Personnel Director)
- E2 Police Chief exaggerates "essential functions" (Personnel Director)
- E3 Police Chief withholds information from Personnel Department (Personnel Director)
- F1 Many safety disability claims are fraudulent (Disability Insurance Carrier)
- F2 Exclusions for pre-existing conditions necessary (Disability Insurance Carrier)
- F3 Legislation invites disability claims abuse (Disability Insurance Carrier)
- G1 Disabled have been ignored by police employers (Disability Advocacy Group)
- G2 Disabled want to be treated as equals (Disability Advocacy Group)
- G3 Disabled tired of being excluded (Disability Advocacy Group)
- H1 Psychological stress claims are legitimate (Police Psychologist)
- H2 Psychological screening is accurate (Police Psychologist)
- H3 Applicants with drug history - unsuccessful (Police Psychologist)
- I1 Police agencies must develop own "critical tasks" (P.O.S.T.)
- I2 Police agencies will lack hiring expertise (P.O.S.T.)
- J1 Police managers poorly trained (Benefit Risk Manager)
- J2 Stress disabilities can be prevented (Benefit Risk Manger)

IV. Developing Alternative Strategies

A Modified Delphi Process was used to generate and analyze alternative strategies to achieve the mission. A group of police managers (See Appendix F) developed a list of alternative strategies which could be used to accomplish the mission statement. The group considered all suggested strategies and following an oral discussion and voting process reduced the number of alternatives to three. These strategies were analyzed in detail and advantages and disadvantages were developed through oral polling and brainstorming.

Strategy 1:

Pursue a liberal and positive response to the **ADA**.

The Police Department will analyze the **ADA** guidelines and immediately modify the entry level selection process to broaden the department's recruitment base. Job task analyses will be used to identify a limited number of essential functions associated with all sworn officer positions. Those sworn jobs that do not require full physical motion and strength, as an **essential** ingredient, will be identified and considered as potential permanent assignments for qualified individuals with a disability.

Pros:

1. The department would be able to recruit sworn officer candidates from a significantly broader population base.
2. Some relief could be afforded to excessive costs being incurred by officers applying for disability retirements.
3. Retention of valuable, experienced officers suffering from job related disabilities could be enhanced.

Cons:

1. Some disabilities (i.e., drug addiction), protected by the ADA, have a history of resulting in excessive officer terminations for unacceptable performance.
2. The department requires all officers to remain capable of performing first responder emergency tasks and can't afford to create an excessive number of permanent, modified-duty assignments.
3. Police unions are likely to resist City efforts to restrict access to disability retirement plans and premium non-uniformed assignments.

Stakeholder Perception:

Stakeholders who understand the need to facilitate the introduction of disabled citizens into the employment mainstream will expect a substantial effort by police executives to accommodate disabled applicants. The recent successes that women have had in entering the traditionally male world of uniformed patrol officer is an example to many that law enforcement work does not necessarily require above-average physical strength and agility.

Stakeholders such as the City Manager, Personnel Director, and City Attorney would be in favor of accommodation as their concern is likely to be conformance with federal EEOC guidelines.

Stakeholders more familiar with police organizational culture will perceive a liberal approach to disabled applicants as threatening. The entry level police position has always been the beat patrol assignment. In most agencies, all officers must be capable of returning to this patrol assignment in the event of emergency or to allow for assignment rotation to enhance career opportunities. The establishment of permanent modified-duty positions for disabled employees is generally perceived as an unfair attack on the number of available premium assignments.

The stakeholders, concerned about the rising costs, and suspected abuse of the safety disability retirement system will perceive the

strategy with mixed feelings. The selection of qualified individuals with a disability may encourage efforts to exclude pre-existing conditions from program coverage. On the other hand, accommodations for officers injured on the job has the potential of reducing the number of officers applying for disability pensions.

Strategy 2:

Resist the application of the ADA to the law enforcement selection process.

Many of the EEOC guidelines covering recruitment and selection of police applicants should be resisted as impractical and unnecessarily expensive. Work must begin immediately to establish essential functions of the police patrol job. Permanent modified-duty assignments will be opposed. Pre-employment and mandatory employee drug testing provisions will be established.

Pros:

1. Establishing realistic essential functions of the police patrol job will allow for reasonable physical and psychological exclusions of unqualified applicants.
2. The strategy maintains attention to reasonable exemptions to EEOC guidelines for law enforcement.

3. Accommodations for disabled law enforcement employees are likely to be precedent-setting and should be approached very cautiously.

Cons:

1. The ADA and EEOC guidelines have already undergone considerable debate, and resistance will invite punitive legal action and establish an adversarial relationship with the EEOC.
2. The safety disability retirement systems are receiving increased public criticism and negative media coverage alleging fraud and abuse.
3. Pre-employment drug testing is relatively common but mandatory employee drug testing is controversial and should be pursued cautiously by management.

Stakeholder Perception:

Stakeholders who support the mainstreaming of disabled employees will not be surprised by a resistive law enforcement strategy. Disabled advocates are used to being restricted from employment opportunities by arguments that purport to be "in their best interest." Police officers are currently occupying full-time positions with physical and psychological disabilities that would

prohibit them from qualifying at the entry level. An aggressive, resistant strategy to achieving this mission will risk an adversarial and distrustful perception from any stakeholder sympathetic to the disabled or concerned about violating EEOC guidelines.

The Police Chief and Police Officer Association will perceive the strategy as positive so long as actions are well-researched and decisions are well-informed. The EEOC requirement that the City make conditional job offers to qualified applicants before administering any medical examination will potentially result in tremendous increases in costs associated with background investigations on those applicants that were traditionally excluded early in the process.

The 1990 ADA incorporates a distinct change in disability discrimination provisions in existence under the Rehabilitation Act of 1973. This change involves the additional protection of **mentally** (i.e., emotionally or psychologically) impaired individuals. Stakeholders concerned about the liability associated with police misuse of firearms and vehicles are worried about ADA protections for supposedly rehabilitated, illegal drug abusers. Police psychologists have developed considerable research supporting a consistent history of terminations of officers, with drug abuse backgrounds, for poor judgement and emotional instability.⁴⁴

Strategy 3:

Support **ADA** provisions and develop proactive policies and procedures to maintain candidate selection and employee fitness standards. Appropriate policies and procedures to include, but not be limited to:

1. Seek reasonable law enforcement exemptions to **ADA** provisions applicable to entry-level screening of sworn officers.

2. Establish essential functions of all sworn officer positions within the department.

3. Determine the percentage of total officers required to maintain a reserve of physically fit, emergency responders and designate the maximum number of permanent, limited duty positions available.

4. Train and staff a unit specifically responsible for investigating disability claims filed by Department employees.

5. Develop a mandatory physical fitness program for all sworn officers and include reasonable **ADA** accommodations for disabled officers.

Pros:

1. The **ADA** public policy of taking action to better the lives of the disabled is valid and popular.
2. EEOC employee selection guidelines require an assertive approach to guarantee selection of the best candidate rather than the minimally qualified.
3. Some permanent accommodations of disabled sworn officers is inevitable but an effective undue hardship defense can limit the negative impact.
4. Department investigations and monitoring of disability claims can have a positive cost-benefit impact.
5. An effective physical fitness program will reduce mid-career disability retirements.

Cons:

1. **ADA** guidelines may prohibit incentives and sanctions necessary for a mandatory physical fitness program.
2. Modified duty positions may establish a precedent and their imposition on the total number of authorized sworn officers may be difficult to control.

3. A Claims Validation Unit may be negatively perceived as a management controlled, internal affairs function reducing employee morale and increasing job stress.

Stakeholders Perceptions:

Advocates for compliance with **ADA** guidelines will expect an informed police agency to seek the most qualified entry-level candidates. The **ADA** does not require preferential treatment for disabled applicants. It only requires that the decision not to hire or retain a qualified candidate not be based on the existence of a protected disability. The establishment of essential functions of each sworn officer assignment will be resisted by some police stakeholders. Some police administrators have taken the position that all sworn officers are expected to be available for uniformed assignment in the event of an emergency. Consequently, they reason that the essential tasks of the beat patrol officer should apply to all sworn officers.

Advocates for the disabled, as well as persons familiar with EEOC guidelines, will argue that non-uniformed, specialty assignments in investigations, training, evidence collection, public information, and many others do not include the same "essential functions" as a uniformed patrol officer. Courts will determine, on a case by case basis, what the fundamental job duties are for each position. It is quite likely that **ADA** guidelines will consider specialized

assignments to be separate **positions** with correspondingly separate essential functions. A strategy that forecasts some permanent accommodations for disabled sworn officers will establish the point at which the required accommodation becomes an **undue hardship** for the agency.

Administrators and risk managers will welcome an effort on the Department's part to investigate disability claims. The formation of an investigative unit will lead to the training of managers and supervisors in handling their responsibilities toward disabled officers. If the focus is properly placed on aiding the employee's return to work or assisting him or her to receive the benefits to which they are entitled, the unit should be supported by most all stakeholders. The unit would also encourage an awareness of an additional component of diversity in the sworn work force.

A physical fitness program can be very affective at preventing disabling injuries. The POA may be suspicious of any sanctions attached to the failure to maintain a prescribed fitness level. Early involvement and participation of the POA will be critical to establishing this program. The personnel director will resist adoption of a fitness program without specific controls over conditioning activities that could lead to job-related injuries. Advocates for the disabled will argue that any awards or sanctions necessary to make the program mandatory will violate the **ADA's** prohibition against discrimination in compensation.⁴⁵

Preferred Strategy:

The three managers reached consensus that Strategy #3 presented the most pro-active and rational approach to achieving the mission. The strategy confronts challenges expected in both the selection process and the management of the existing sworn work force. A strategy that supports the overall public policy of the **ADA** but works aggressively to maintain appropriate, job-related selection standards will be required to ensure hiring the most qualified candidates. For the existing work force, frequent conferences with the POA will be necessary to establish agreements regarding permanent modified duty positions. EEOC guidelines are clear that labor contract agreements may not violate **ADA** provisions and low employee morale, in itself, is not a valid basis for establishing an undue hardship.⁴⁶ Nevertheless, the issue of permanent modified-duty positions will require cooperation between management and rank and file to resolve issues regarding an appropriate limit. A departmental Claims Validation Unit and physical fitness program can have a substantial impact on reducing the number of disability retirements.

Implementation Plan:

The implementation plan for accomplishing this task involves progressing from the **mission** statement which describes **what** the agency wants to accomplish to **strategic** goals and objectives that

describe **how** the department plans to achieve the mission. Strategy #3 provides a somewhat global approach to pursuing the mission. An effective implementation plan will divide the over-all strategy into smaller and smaller **tactical** strategic goals until the project reaches a level at which task groups can begin working on assignments that are specific, measurable, achievable, realistic, and subject to a reasonable time schedule.

Overall coordination and planning responsibility for this process should rest with an Executive Committee appointed by the Chief of Police. The Executive Committee would be chaired by a command officer and be composed of most of the command staff representing the Administrative Bureaus of Personnel, Training, Community Relations, and Internal Affairs. Also, at least two command representatives from the Uniform Division representing the recruit field training function and personnel deployment should be included. An Investigative Division command representative should provide insight on potential modified-duty positions. The department's legal advisor or liaison with the City Attorney's office must be included. Liaison must also be maintained with resources available in the City Personnel Department, local EEOC office, and local disabled advocacy groups.

Effective planning will require formation of at least three sub-committees with the following strategic goals:

1. Recruitment and Selection Committee:

Strategic Goal:

Review ADA and EEOC guidelines to insure that the recruitment and selection process complies.

Tactical Goals:

- (a) Establish essential functions for all sworn officer positions.
- (b) Train all employees in basic ADA selection requirements.
- (c) Update psychological evaluations to ensure pre-employment screening for disqualifications based on job-related and business necessity standards.
- (d) Ensure that physicians conducting pre-employment medical exams are familiar with current essential functions of the job and ADA requirements.

Estimated Time Required: 6 - 12 months

2. **Training and Supervision Committee:**

Strategic Goal:

Establish a recruit and permanent employee evaluation and career development plan that maintains performance standards and morale.

Tactical Goals:

- (a) Ensure that the performance evaluation process applies to essential functions of the sworn officers' assignments.
- (b) Update the assignment rotation plan to include potential permanent specialty positions.
- (c) Establish criteria for appropriate employee pre and post employment drug testing.
- (d) Train all staff officers in ADA and EEOC performance evaluation provisions.

Estimated Time Required: 12 - 18 months

3. **Disability Retirement Committee:**

Strategic Goal:

Promote sworn employee physical fitness and reduce necessity for employee disability retirement.

Tactical Goals:

- (a) Establish the maximum number of permanent modified-duty positions that the department can support without undue hardship.
- (b) Conduct cost-benefit analysis of staffing a Claims Validation Unit within the department.
- (c) Develop management and supervisors training program covering:
 - responsibilities towards disabled employees
 - assisting the injured to return to work
 - Workers Compensation case law
 - Labor Code law
 - peer counseling
 - psychological behavior
 - Pension Board, Workers' Compensation Appeals Board, and rehabilitation hearing procedures
- (d) Develop an effective physical fitness program for all police employees.

Estimated Time Required: 12 - 24 months

This project would be scheduled primarily by subcommittee chairpersons who would establish action plans and estimated progress dates. A command member of the Executive Committee would be assigned responsibility for **operations**. This command member would be responsible for monitoring subcommittee progress, facilitating any necessary coordination with other committees, avoiding duplication of effort, and reporting progress to the Executive Committee. The Executive Committee would be responsible for evaluating progress and assessing success of the implementation plan.

Cost-Benefit Analysis:

Successful implementation of the strategic plan depends on the relationship between costs and benefits. An implementation plan that becomes too costly, when compared to expected benefits, is bound to fail. An effective preliminary and ongoing cost-benefit analysis recognizes that both costs and benefits must be examined during the full scope of the plan. The plan begins with the mission and extends the full length of time that costs will occur and benefits will continue to accrue. Costs and benefits are both direct and indirect as well as being tangible (measurable) and intangible (not measurable). An effective analysis of the costs and benefits relevant to the strategic plan must include at least recognition of the following.

Costs:

- Legal costs and staff time to pursue reasonable exemptions to ADA applications to sworn police positions. Staff time would be measurable but the resulting negative relationship with the EEOC could involve future costs difficult to calculate.
- Staff time necessary to establish essential functions of every sworn officer position.
- Staff time required to establish assessment of the maximum number of permanent modified positions available for sworn officers.
- Training costs to improve the capability of managers and supervisors to monitor their employees' workers' compensation cases.
- Payroll costs for a Claims Validation Unit.
- Expenses to research and establish an ADA approved, mandatory physical fitness program.
- Productivity loss incurred as employees take incentive time off awarded under the fitness program.
- Costs of annual employee fitness exams.
- Sworn officers occupying temporary and permanent modified-duty positions are receiving full pay and benefits without the responsibility to assume assignment to other than a limited number of positions.
- Reduced number of full-duty officers may increase overtime costs.

- Establishment of modified-duty positions may result in City Council mandating civilianization of these sworn positions. Reduces future capability of police department.

Benefits:

- Reasonably acquired exemptions under the ADA would reduce potentially excessive recruitment and selection costs and avoid unreasonable reductions in full-duty, sworn work force.
- Documented essential functions of each sworn position will encourage EEOC compliance, reduce penalties, and limit liability awards.
- Professional determination of a maximum number of modified-duty positions available will prepare the agency for appropriate undue hardship defense.
- Properly trained managers and supervisors will reduce amount of time lost due to on-the-job injuries, get employees back to work sooner, and reduce the number of disability pension awards.
- An effective Claims Validation Unit will reduce disability retirement awards sufficiently to pay for staff salaries.
- Physical fitness program will improve employee morale and productivity.
- Regular medical examinations (fitness program) will provide early detection of potential health problems.
- Workers' compensation insurance covers 40% of lost work time under approved, job-related, fitness program injuries.

- Accommodation of an injured, but experienced and valuable, sworn officer is generally more productive than the combination of a mid-career retirement pension and replacement costs of a new recruit officer.
- Civilianization of selected sworn positions could reduce personnel costs with minimum impact on productivity.

The above lists of direct and indirect costs and benefits, relevant to the strategic plan, represent only a small sample of comparisons that must be made to effectively monitor the implementation plan to maintain a proper balance. Application of ADA interpretation of "reasonable accommodations" and "essential functions" of the job will have direct impacts on projected costs and benefits.

It seems clear that "essential job functions" will be the key element in determining whether the strategic plan can pass an on-going cost-benefit relationship. Under very limited current interpretations of this ADA element, it seems likely that very small police agencies can apply the same essential job functions to most all sworn positions. Each officer is required to substitute for another in the same rank and the department simply cannot afford permanent (i.e., non-rotation) assignments. As police departments increase in size, the chances that essential functions will differ among assignments becomes more likely. In an agency the size of Contra Costa (i.e., 140 sworn) a considerable number of sworn positions (e.g., training officer, DARE officer, desk

officer, background investigator, etc.) could qualify for modified duty.

The strategic plan depends on a consistent EEOC interpretation of essential job functions within a particular police department. The reality, however, is that fundamental job tasks will vary by organizational structure, policing philosophy, and assignment rotation plans. As noted earlier, the EEOC will review job duties on a case by case basis, applying a number of factors and guidelines. The bottom line is that costs and benefits will relate directly to future EEOC and court interpretations of what are considered reasonable accommodations and what job functions are considered essential, under a particular organization's structure and operations.

The implementation of the strategic plan is quite likely to require a claim of undue hardship if ADA enforcement guidelines cause the strategy costs to significantly exceed long-term benefits. As stated earlier, an employer is not required to provide a reasonable accommodation if the accommodation would impose an undue hardship on the operation of the business.⁴⁷ The accommodation could be considered to impose an undue hardship if it will be "unduly costly, extensive, substantial, disruptive, or will fundamentally alter the nature of the program."⁴⁸

The provisions of the ADA, its legislative history, and the EEOC's regulations do not provide specific guidelines as to when expenses become "unduly costly." Each case will be analyzed in a specific context and considerable uncertainty can be expected during the next ten years. An additional complication can be anticipated in light of the EEOC's authority to consider both the financial resources of the department as well as the City as a whole in assessing a claim of undue hardship (ADA Section 101[10]).

The strategy is intended to facilitate positive policy planning in order to accommodate disabled officers in the future work force. The relationship between costs and benefits, during and after implementation, will depend greatly on court interpretations of the key ADA elements of reasonable accommodations and essential job functions.

CHAPTER III

TRANSITION MANAGEMENT PLAN

- * Commitment Planning
- * Commitment Charting
- * Transition Management Structure
- * Techniques to Support Implementation

TRANSITION MANAGEMENT PLAN

A primary cause and motivation for organizational change is some degree of **dissatisfaction**. The passage of the **ADA** can be partially attributed to the dissatisfaction, voiced by many of the 43 million disabled Americans, with the lack of effective enforcement of the 1973 Rehabilitation Act. As is the case with most large systems and institutions, the 1990 ADA represents a significant force **outside** law enforcement organizations that is requiring immediate and substantial changes in basic operations.

The **environmental situation analysis** indicated that law enforcement recruitment efforts will benefit from an increase in the number of potential candidates. Qualified police applicants, traditionally excluded because of minor physical disabilities, will add to the expected smaller recruitment pool. On the other hand, **ADA** protection to rehabilitated drug abusers, emotional and psychological disabilities, AIDS victims, minor back deformities, cardiovascular diseases, diabetes, and epilepsy are expected to complicate the police employer's responsibility to accommodate the sworn officers of the future.

The **ADA** is also expected to create incentives and opportunities to accommodate experienced sworn officers who suffer disabling injuries on or off the job. Expenses associated with law enforcement

disability retirements are having a tremendous, negative impact on the costs of providing police services. The ADA may provide the incentive for partially disabled police employees to seek job accommodations for continued employment.

The **organizational capability analysis** indicates that the Contra Costa Police Department enjoys a strong recruitment base and a qualified and well-trained staff. The department is accepted well by the community and provides substantial career opportunities. Organizational weaknesses result from recent budget shortfalls, personnel cutbacks, and an outdated, undersized facility.

The **strategic plan** developed to meet the impact of the ADA calls for support of the public policy detailed in the Act while seeking reasonable law enforcement exemptions to the provisions applicable to the entry-level screening standards for sworn officers. The strategy also involves establishing essential functions of the complete police job, creating a disability Claims Validation Unit and developing a voluntary physical fitness program for all sworn officers.

The strategic plan envisions a future scenario in which law enforcement agencies effectively pursue the mission of providing quality police services by recruiting and retaining a wide range of qualified officer candidates. The recent history of law enforcement has shown an improved ability to relate to the community as

sworn officer cultural, racial, age, and gender diversity expands. There is reason to believe that some individuals traditionally excluded as physically disabled could offer valuable contributions.

Getting the police department from its present situation to the desired state; i.e., functioning effectively under ADA guidelines, will require an effective **transition management plan**. In managing this change process, it will be necessary to (1) determine the major tasks and activities for the transition period, and (2) determine structures and management mechanisms necessary to accomplish those tasks.

COMMITMENT PLANNING

The best and most detailed implementation plan will not ensure that the desired changes will occur unless vital organizational and individual commitment exists. In this complex change process, there is a **critical mass** of individuals and/or groups who can directly affect whether the desired change is successful or fails.

The strategic plan required identification of individual and group **stakeholders** who would impact the plan, be impacted by the plan or would care about the plan. It is the further analysis of this group of stakeholders that leads to the determination of which ones are **critical** to the success or failure of plan implementation. The

following **critical mass** is the **minimum number** of individuals whose active commitment is necessary to provide the energy and drive for the plan to be successful.

1. City Manager
2. Chief of Police
3. Local Representative of the Equal Employment Opportunity Commission
4. City Personnel Director
5. City Attorney
6. Police Officer Association President

COMMITMENT CHARTING

Commitment charting is an effective technique for developing an action strategy for achieving the necessary commitment from target individuals in the critical mass. The technique helps to determine the minimum level of commitment needed from each individual in order to make the plan effective.

Table V lists all members of the critical mass on the vertical axis. Across the top is listed the degrees of commitment ranging from "will block the change" to "will make it happen." For each member of the group, the "O" indicates the minimum commitment necessary for change to occur. The "X" in the box indicates their present degree of commitment. The arrow between the two indicates the work that needs to be done to get the necessary commitment.

TABLE V

Critical Mass	Block Change	Let Happen	Help Happen	Make Happen
City Manager		X → 0		
Chief of Police		X → 0		→ 0
EEOC Rep	X → 0			
Personnel Director		X → 0		→ 0
City Attorney		X → 0		
P.O.A. President	X → 0			→ 0

CITY MANAGER

The City Manager will place a high priority on compliance with ADA provisions. His commitment level is likely to be reduced as the Police Department searches for law enforcement exemptions to the EEOC hiring guidelines. It is clear that he will not support confrontation with the EEOC and will need to be convinced that applications for exemptions are reasonable, in the City's best interest, and politically safe. His commitment to this strategy must be increased from a luke warm "let it happen" to "help it happen" in order to avoid his blocking the change through his direct authority over the Chief of Police.

The desired shift in the City Manager's position can be achieved by reducing his resistance to change. The most practical tactic will be to neutralize the situation. The City Manager will not favor an involvement in this process if he perceives it as forcing him to

personally solve the problem or take action. The Police Chief must ensure that all aspects of the situation are clarified for the City Manager. Clarification of important issues will be sufficiently non-threatening to encourage the desired shift in his level of commitment if accomplished properly. The issue clarification process should involve a minimum of public exposure to limit the City Manager's sense of risk.

CHIEF OF POLICE:

The Chief of Police has been very vocal about his negative opinion of the ADA requirements. He considers the hiring and accommodation demands to be unrealistic and is frustrated by the imposition on his ability to select and retain a qualified work force. He will have a tendency to welcome a challenge to EEOC guidelines, but is a critical actor for achieving effective compromises to this imposing civil rights legislation. His leadership is indeed critical to making the plan "happen" and he must be committed to protecting the interests of the Police Department without losing the support of other members of the critical mass. His status must be moved from a position of "let it happen" to "make it happen."

The shift in the Chief's position can be influenced by making sure that he understands the critical leadership role he occupies in this process. Including the Chief in planning strategy meetings will acquaint him with formulas for analyzing resistance to change

and his responsibilities as a role model. The Chief must be made to understand that organizational and critical mass commitment can be achieved only if the leadership clearly demonstrates its own commitment to the change. The Chief must understand that he is a critical role model for other members of the organization.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION REPRESENTATIVE:

The EEOC is charged with developing guidelines for enforcing the ADA. The present guidelines have not included any specific exemptions for law enforcement hiring. It is apparent that the EEOC feels that the rights of the country's disabled individuals have largely been ignored under the 1973 Rehabilitation Act. The EEOC is placing the burden on police administrators to demonstrate why individuals with minor, or rehabilitated, physical and mental disabilities are not qualified for at least some sworn police positions. The local EEOC representative will have the authority to **block** any police employment practices that do not comply with their guidelines. Any efforts to seek changes or exemptions under the ADA will require that the EEOC commitment level be raised to, at least, "let it happen."

The power and authority of the **EEOC** requires that any shift in commitment must be based on an established consensus and agreement on the overall objective. The **EEOC** must be convinced that the department change strategy is based on an intention to comply with

ADA guidelines. Once consensus is reached on this overall philosophy, commitment can be explored over lesser issues. Emphasis on clarification of all aspects of the proposed changes will tend to neutralize the situation and avoid placing the EEOC in positions of problem-solvers and action-takers.

PERSONNEL DIRECTOR:

The Personnel Director has already voiced concern that the Police Department does not take federal employment guidelines seriously and does not appreciate the potential civil liabilities. Recent disagreements over suggested dispositions and attention to employee sexual harassment allegations have strained cooperation and trust between the two department heads. The Personnel Director, however, has a personal interest in reducing employee short and long-term disability claims as the City administers its own disability retirement plan.

Despite her healthy respect for the EEOC guidelines, she would be supportive of a strategy that looks for reasonable interpretations of the hiring requirements and minimizes demands on the disciplinary and disability systems. At best, her current position on the strategy is considered a cautious "let it happen." It will be necessary to raise her level of commitment to "make it happen" in order to avoid conflict and reservations that could **block** the plan.

Shifting the Personnel Director's position to the same level as the Chief of Police will require strategies that focus on collaboration and removal of distrust. "Problem finding" is an effective technique that neutralizes the situation and brings critical mass members together to identify and clarify all aspects of the problem. The technique, if applied properly, would be sufficiently non-threatening to encourage commitment. The technique is effective only if it allows participants to change their minds without having to actually say so. The basic rules are: (1) The activity can only be used to clarify problem and issue identification. No actual action is allowed; (2) There is a minimum of structure. The objective is limited to clarification but the exchange of ideas is as free as possible; (3) There is a minimum of public output -- no minutes or public statement of agreement; and (4) Temporarily, there must be very few meetings.

If the technique is combined with a training environment, the setting would be helpful in minimizing power and position within the organization. All participants are generally considered equal, as students, in a learning situation.

CITY ATTORNEY:

The City Attorney is familiar with the EEOC guidelines and has a sense of allowable variation under compliance regulations. He will appreciate the advantages and disadvantages of testing vague

language. He will favor a conservative approach to challenging the regulations but is not intimidated by their existence. His minimal support will be required, but his position of providing legal advice, primarily to the City Manager, will make it necessary to raise his commitment to that of **helping** the strategy happen.

Strategies relevant to raising the commitment level of the **EEOC** and City Personnel Director are also applicable to the City Attorney. The ability of the City Attorney to influence the position of the City Manager and Personnel Director requires a strategy that achieves consensus on larger objectives and builds commitment over lesser issues. The same strategies of eliminating resistance through situation clarification will prove to be more effective than forcing the City Attorney to solve problems associated with accomplishing the mission.

POLICE OFFICERS ASSOCIATION (POA) PRESIDENT:

The POA Board has become very active in representing the interests of the rank and file sworn officers. The accommodation of disabled recruits, as well as experienced officers, is likely to have an impact on the available number of non-uniformed special assignments.

The department currently rotates specialized assignments and thereby creates career opportunities outside the normal promotional

ladder. EEOC requirements to consider accommodation of officers with disabilities ranging from minor back injuries and stress to AIDS, diabetes, and epilepsy are bound to lead to a certain degree of job restructuring. The POA will be expected to try to block restructuring that converts premium investigative and day-shift staff positions from rotational to permanent "light-duty" jobs. The accommodation of disabled officers is also likely to reduce the number of disability retirements currently available to officers who are injured to the extent that they are unable to perform 100% of the patrol officer's usual duties. The P.O.A.'s position on this impact will vary with the age of the work force but they are currently in favor of retaining access to the 50% disability retirement award when a job injury prevents an officer from being selected for a beat patrol assignment.

The POA president can use his influence over the association to at least neutralize opposition to the strategy. Since this plan is, by nature, management driven, it will be necessary to work closely with the POA president to minimize the perception that the strategy is being done **to** the rank and file rather than **with** them. The POA president's commitment to the plan must be raised to the "help it happen" level.

TRANSITION MANAGEMENT STRUCTURE

The management of the transition from the current environment to the implementation of the chosen strategy will require the establishment of a temporary system to accomplish the change. It is very difficult for a stable organization to change itself. Support of the ADA public policy, while actively expanding the EEOC guidelines to fit law enforcement needs, will require commitment from stakeholders and critical mass members both inside and outside the normal Police Department hierarchy.

The transition plan for accomplishing this task involves progressing from the strategic plan **mission** statement which describes **what** is necessary to accomplish to the **strategic** goals and objectives that describe **how** the agency plans to achieve the mission. The transition plan will divide the overall strategy into smaller and smaller **tactical** goals until the plan reaches a level at which task groups can begin working on assignments that are specific, measurable, achievable, realistic, and subject to reasonable time schedules.

Overall coordination and planning responsibility for this process will rest with an **Executive Committee** appointed by the Chief of Police. The Executive Committee will be chaired by the Police Administrative Division captain and be composed of the Administrative Division lieutenant in charge of police personnel, training,

and internal affairs. The Police Uniform Division captain and the lieutenant responsible for the recruit field training program will also be included. In addition, the Investigative Division captain will be a member to provide insight on additional, potential modified-duty positions. The City Attorney, or his designee, as well as the Personnel Director, or her designee, and a member of the City Manager's office will complete the Executive Committee.

The Police Administrative Division captain is an appropriate choice for the Executive Committee chair as he has the necessary clout to act for the Chief and solicit contributions from personnel, both within and outside of his division, with minimal confrontation. He has the respect of the existing organization's leadership and sufficient interpersonal skills to use persuasion rather than formal power in acting as the project manager.

The Executive Committee will examine relevant issues, develop specific tactical goals and objectives, and establish subcommittees. A small group of Executive Committee members, including the Uniform Division captain, Investigative Division captain, and Personnel Director will serve as an **operations** subcommittee to track the work progress of subcommittees, ensure that reasonable deadlines are established and that sufficient managerial support is available.

The Executive Committee is expected to establish at least three working subcommittees outside the Executive Committee. Membership on

the subcommittees will represent diagonal slices through the organization and other City departments. This membership scheme allows for input from different levels and functions within the City.

The working subcommittees will be chaired by a Police Department mid-manager and will have the following membership and strategic goals:

1. **Recruitment and Selection Subcommittee**

Membership will include a Police Administrative Division lieutenant as chair and representatives of the police personnel unit, a Personnel Department analyst, and a member of the City Attorney's staff.

Strategic goal is to review ADA and EEOC guidelines to ensure that police recruitment and selection processes provide compliance.

Tactical goals will include:

1. Establishing essential functions for the police entry level, patrol position, and

2. Updating psychological and physical pre-employment examinations to ensure that disqualifications comply with job related and business necessity standards.

Estimated Time Required: 6 to 12 months

2. Training and Supervision Subcommittee

Membership will include the police Field Training Coordinator lieutenant as chair and include the Police Training sergeant, a senior Patrol sergeant, a female Patrol officer, a male Patrol officer, an Investigative Division sergeant, a Personnel Department analyst, and a POA board member.

The **strategic** goal will be to establish a recruit and permanent sworn officer career development plan that maintains performance standards and morale.

Tactical goals will include:

1. Conformance between performance evaluations and essential functions of sworn assignments.
2. Updating of the assignment rotation plan to minimize permanent specialty positions.

3. Establishment of criteria for appropriate employee drug testing.

Estimated Time Required: 12 to 18 months

3. Disability Retirement Committee:

Membership will include the department fitness coordinator, POA board member, Personnel Department disability and medical benefits analyst, a senior Patrol officer, a senior detective, and Police Administrative Division Personnel lieutenant as chair.

The **strategic** goal will be to promote sworn employee physical fitness and reduce the frequency of employee disability retirements.

Tactical goals will include identifying a limited number of temporary and permanent modified-duty assignments. The committee will also develop a voluntary fitness program and a manager training program to reduce the number of disabling injuries and illnesses. The committee will also examine a cost-benefit analysis of an in-house Claims Validation Unit and recommend a unit staffing level and mission statement.

Estimated Time Required: 12 to 24 months

TECHNIQUES TO SUPPORT IMPLEMENTATION

The 1990 ADA, and the strategies to deal with it, represent change imposed on, rather than initiated by, the organization. The strategic changes proposed and the inevitable state of transition will result in substantial organizational disruption. Significant employee anxiety typically results from a sense of minimal involvement, poor organizational communication, lack of trust, loss of direction, and distracting power issues.

The successful management of this difficult transition state will require the application of the following techniques and technologies:

Readiness Assessment:

The likelihood that the strategy, designed to deal with the impact of the ADA and EEOC guidelines, will be successful depends on the organization's degree of readiness for change. The readiness for change depends on the relationship between (1) the organization's level of dissatisfaction with the status quo; (2) the existence of clear, agreed-upon goals; and (3) the perception that there are viable first steps that can be taken to achieve the goals.

Since the organization's dissatisfaction with ADA compliance is relatively low, it will be very important to obtain organizational consensus on goal identification. Management motivation for change may be significantly higher than at the line level, and line personnel may interpret the ADA impact on the organization in a much different context than top managers. The Executive Committee should conduct a readiness assessment before establishing subcommittee goals and confirming subcommittee membership.

Responsibility Charting/Implementation Feedback and Evaluation

Since implementation of this strategy will require cooperation of individuals both within and outside the police department, the technique of responsibility charting will be useful to reach agreement on various levels of responsibilities for assigned tasks. This technique will be particularly valuable for subcommittees. Subcommittees will be expected to involve several other persons both inside and outside of the normal hierarchy in order to complete some tasks. The responsibility charting process will establish the **single** person actually **responsible** for each task and minimize the number of participants who have the **approval** authority (right to veto) for individual acts or decisions.

The chart will also be useful in establishing the necessary steps in accomplishing a particular goal or objective. In the case of the training and supervision subcommittee, responsibility charting will

provide a good starting point for determining not only who is **responsible** for updating the assignment rotation plan but who has authority to **approve** criteria and decisions made along the way, whose **support** is needed to make the determination and who must be **informed** and consulted before action is taken.

Formation of the chart in this case should involve two or more members who manage the Transition Executive Committee, Operations Sub-committee, and/or chairpersons of any other task oriented sub-committee. These managing members would create a list of the actions, decisions, or activities that are included in the transition plan. A responsibility chart can be used for the entire transition plan or a particular sub-committee project.

The relevant tasks are listed on a vertical axis. The chart-forming participants next identify the people involved in each action or decision and list these actors on the cross joint or axis of the form. The participants then chart the required actions of each actor in reference to the particular action or decision, using the following classifications:

- R: has **responsibility** for a particular action
- A: must **approve**--has power to veto the action
- S: must **support** (i.e., must provide resources for the action)
- I. must be **informed**, but cannot veto

The chart would be provided to other participating actors. The intention is to develop the chart according to the work to be done, rather than according to the status or authority of the actors on the chart.

The primary value of the responsibility charting technique is to provide a systematic means of reducing delays and barriers in a well structured action plan. An action plan that establishes a chronological map of the primary tasks necessary to accomplish part, or all, of the strategic plan is only as good as the feedback and evaluation system that exists to notify project managers when adjustments are necessary to maintain the course. An effective feedback system does not occur, necessarily, at set periodic intervals. The implementation team is constantly initiating action, taking feedback, evaluating feedback, making necessary adjustments in the task group direction, and seeking more feedback in a continuing cycle.

Difficulties with the timely achievement of scheduled goals and objectives can usually be traced to misunderstandings of specific task responsibilities. A responsibility chart clarifies roles by involving all team members in establishing individual levels of responsibility relevant to specific tasks. Table VI represents the responsibility chart for implementation of this strategic plan. The rules of its completion serve to avoid duplication of effort and misunderstanding. The chart must indicate only one member responsible (R) for each task. This rule encourages accountability. The

number of A's (i.e., approval) must be held to a minimum for each task. Too many members allowed to have approval (or veto) power tends to force the team into seeking consensus and will waste time.

In addition to a clear action plan and well understood responsibility charts, the designation of clear, short range goals and mid-point scenarios are very helpful in evaluating plan progress. Short range goals provide optimism and regular senses of accomplishment.

Similarly, the vision of a future state that is five or ten years away tends to lose its luster as employees become frustrated and discouraged in the wake of a constantly changing work environment. Clear visions of medium range mid-points, combined with constant efforts to obtain and evaluate organizational feedback, will prove invaluable in combating the drop in employee morale that is encountered commonly during periods of organizational change.

TABLE VI

RESPONSIBILITY CHART

Actors

Tasks	Exec. Comm. Chair	Operations Comm. Chair	Recruitment & Selection Sub-Committee Chair	Training & Supervision Sub-Committee Chair	Disability Rights Sub-Committee	EEOC Representative	Personnel Director	City Attorney	POA President
Est. Essential Functions of Job	I	S	S	S	R	I	A	S	I
ADA Training	A	S	-	R	S	S	I	I	I
Up-date Psych. Eval	S	S	R	-	I	I	A	I	I
Train City Physician	-	S	R	-	I	S	A	I	I
Career Development Plan	A	S	I	R	I	I	S	-	S
Perf. Eval. Process	A	S	I	R	S	I	S	I	I
Assignment Rotation v. Modified Duty	A	S	S	S	R	I	I	I	S
Employee Drug Testing	I	S	I	R	S	S	A	S	S
Physical Fitness Program	I	S	S	R	S	I	A	I	I
Max. # of Perm. Modified Duty Positions	I	S	I	S	R	I	A	I	I
Cost-Benefit C.V.U.	A	S	-	S	I	I	R	I	I
Workers' Comp. Training For Managers	A	S	I	R	S	I	S	S	I

Legend:

R = Responsibility (Not Necessarily Authority)

A = Approval (Right To Veto)

S = Support (Put Resources Toward)

I = Inform (To Be Consulted)

- = Irrelevant To This Item

Reduction and Management of Negative Energy:

Frustration and anxiety are to be expected during this transition state. The Chief and his management staff must realize that they should be particularly visible during this time and are important role models. Conflicts must be identified and managed effectively. The Chief must convey a sense of positive direction and provide leadership to the Executive Committee rather than pushing it from behind.

Maintain Effectiveness of Communication and Information Systems:

In order to be effective participants in this process, all members of the organization will have an acute need to be informed and involved. Minutes should be kept of Executive and subcommittee meetings and made available to department staff members.

Department members that perceive themselves as uninvolved in issues that affect them, such as rotational assignments and modified-duty positions, will feel threatened and frustrated.

Management Needs to be Perceived as Competent:

Members of the Executive Committee and subcommittee chairs must recognize that members of the organization will watch them to determine what the managers feel is important. The change managers must exhibit confidence in the change strategy and

maintain strong positions of trust and respect. Members of the organization must perceive that the change managers are competent and pursuing strategies that are consistent with the department's mission.

Management can develop the necessary element of "followership" by "practicing what it preaches" and consistently demonstrating its own commitment to the change. Managers must incorporate change activity into their own personal behavior. Managers, thereby, become role models for other members of the organization and demonstrate that the organizational change has priority and value.

Problem Finding:

If significant resistance is encountered to the change strategy, **problem finding** can be an effective means of neutralizing or breaking up frozen positions and biases. Problem finding can be effective at clarifying all aspects of a problem surrounding the impact of developing permanent modified-duty positions or job restructuring as partial accommodations of EEOC guidelines. The rules of problem finding may create an environment in which organizational members with strong biases can clarify issues without any responsibility to solve problems or take any action. In the complicated environment of EEOC guidelines and employee representation, the technique may be effective at encouraging commitment to a solution.

Educational Interventions:

Department-wide **training** designed to clarify ADA provisions and EEOC guidelines are likely to have the same effect at unfreezing attitudes as **problem finding**. Organization members have equal status in a classroom setting. The training will help to **inform** and **involve** employees, help them to understand the need for change, and promote necessary commitment.

Writing a Midpoint Scenario:

The strategy designed to deal with the impact of disabled police employees is charting such unfamiliar ground that organization members may have difficulty building confidence in such an uncertain future. It will be helpful for the Executive Committee to develop clear action plans and provide a description of what the organization should expect to see, hear, and operate like at a particularly significant intermediate point. If this scenario is realistic and attainable, it will provide an opportunity to both clarify direction and check progress along the way.

Resistance Management:

The transition state will encounter normal resistance. Managers must analyze the type of resistance in order to effectively deal with it. It will be helpful for the Chief and the Executive

Committee to use the following formula for evaluating the resistance process: $C = (ABD) > X$.

In this case, the extent of successful change (C) will depend on the extent to which the level of dissatisfaction with the status quo (A), the desirability of the proposed change (B), and the practicality of the change (D), **exceed** the risk and disruption (i.e. cost of changing).

In this case, the Executive Committee must work hard to focus on the desirable aspects of the proposed change. The advantages of the change strategy will need to help balance the minimal level of organizational **dissatisfaction**, with the status quo, against the expected **disruption** during the transition process.

CONCLUSION

The passage of the **Americans With Disabilities Act (ADA)** in 1990 became a reality for many police organizations when it was actually implemented in January of 1992. Police executives and managers began to wrestle with immediate impacts of the ADA on recruitment and hiring policies and procedures. It also became clear that the ADA would have a significant effect on the physical and psychological qualifications of future police officers. It appears likely that police executives and managers of the future can expect to accommodate an increasing number of disabilities within the sworn work force. The purpose of this study is to explore the impact that this change will have on the management of that work force. The study attempts to focus on sub-issues that include modified-duty positions, collective bargaining processes, and budgetary demands attributable to mid-career disability pensions.

The **Futures Study** examined trends and events that were relevant to the issue. The forecast of current trends indicates that the future of law enforcement will be challenged by disabled officers presenting an additional component of work force diversity. Just as other diverse employees require individual attention, the complicated task of managing today's sworn police officers will become even more interesting in the future.

A careful analysis of the environmental situation applicable to a northern California medium-sized police department revealed a number of opportunities in addition to some significant threats. The accommodation of disabled persons in sworn police ranks will broaden the recruitment pool that is forecast to shrink considerably during the next ten years. It is clearly established that the introduction of women and minorities into the ranks of sworn officers has had a very positive effect on the ability of municipal police agencies to relate effectively to the community it serves. Innovative and persistent strategic planning will be required to comply with the spirit of the ADA and maintain a sworn police work force that does not compromise the safety of sworn officers or citizens.

Successful planning for the potential future law enforcement scenarios will require particular expertise and patience in managing the transition from the current environment to the desired future organizational state. The fact that change is initiated primarily by the ADA makes successful transition considerably more difficult than change initiated from within the organization.

As the study progressed, it became evident that planning for future ADA impacts must move beyond considering the task as simply one of "accommodating" another protected class. As in several other examples of diversity in the work force, many individuals

currently excluded from sworn police positions may offer valuable contributions to the police departments of the future.

The limited size of this study left several issues available for research. The employment benefits attached to police employment will confine initial work force accommodations to modified-duty positions for sworn officers. The ADA will also have an impact on civilianization of sworn officer positions. The use of lethal force by police officers usually involves an allegation that the officer was poorly trained or personally responsible for the inability to use a less harmful alternative. The effect of the ADA on an officer's capability to physically control a threat to his or her safety would be an interesting futures issue.

ENDNOTES

1. ADA Section 2 (b) (1)
2. Federal Register. Vol. 56 p. 35726 et. seq.
3. ADA Section 102(a)
4. Ibid.
5. ADA Section 3(2)
6. ADA Section 101(8)
7. ADA Section 101(9)
8. Report of the House Education and Labor Committee, HR (ELC) p. 55.
9. Ibid
10. Betty B. Bosarge, Ph.D., **Implementing ADA Expected to Cost Law Enforcement Millions in Litigation Fees.** Crime Control Digest. Vol. 25. No. 51. p. 1. Dec. 23, 1991.
11. Simon v. St. Louis County. 735. F. 2nd. 1082 (1984).
12. ADA Section 101(9)
13. HR (ELC) p.64.
14. ADA Sections 101(10) 103.
15. ADA Section 101(3), 103(b).
16. ADA Section 104(a).

17. ADA Section 104(b).
18. ADA Section 103(a).
19. Lee P. Brown IACP letter. April 29, 1991 to Francis M. Hart.
20. ADA Section 102(c)(2). Also EEOC Regulation 29 CFR Part 1630.13(a).
21. Col. Thomas Rice, Ohio State Highway Patrol. Comment Paper on EEOC Rules Implementing the ADA. April 1, 1991.
22. IACP/BJA project: Building Integrity and Reducing Drug Corruption in Police Departments. September, 1989.
23. 29 CFR. Part 1630.
24. Lee P. Brown. op. cit.
25. Article 39. p. 52. San Jose Police Department Memorandum of Understanding. February 23, 1993.
26. Kimball M. Shelley. **Permanent Light-Duty Assignments For Police Officers.** The Journal of California Law Enforcement. p. 79.
27. Stuessel v. City of Glendale. 141 Cal. App. 3d 1047 (1983).
28. Ibid.
29. 29 CFR. Part 1630.
30. HR (ELC) at 63.
31. Gary R. Johnson, **Industrial Disability Retirements: Potential Future of the Public Employees Retirement System.** P.O.S.T. Command College. 1986. p. 14.

32. Steven C. Wilkins, **Managing Disability Claims and Retirements: A Prescription For the California Highway Patrol, P.O.S.T. Command College.** 1990. p.3.
33. Kimball. op. cit. p. 79.
34. Wilkins, op. cit. p. 99.
35. Gray Davis, State Controller. Annual Report of Financial Transactions Concerning Public Retirement Systems. 1988.
36. Christopher H. Schmidt. **Retirement, Public Safety Abuse in California.** San Jose Mercury News. October 7, 1992.
37. Ibid.
38. Ibid.
39. California Government Code Section 21026.
40. 29 CFR Part 1630.
41. 29 CFR Part 1630.2(h) (2).
42. Ibid.
43. Schmidt, Christopher H. op. cit.
44. International Association of Chiefs of Police (IACP), **Building Integrity And Reducing Drug Corruption in Police Departments,** 1989.
45. ADA Sections 102(a) and 102(b)(1).

46. 29 CFR Part 1630, Appendix.

47. ADA Section 102(6)(5)(A).

48. HR (ELC) at 67.

APPENDIX A

PERMANENT MODIFIED DUTY POSITION SURVEY

AGENCY	Recognize (Written or Unwritten Policy/ MOU) Permanent Modified-duty Positions?	Estimated Number of Officers in Permanent Modified Duty Position?	Ever Promoted to a Permanent Modified Position?
1. San Jose P. D.	Yes	42	No
2. Sacramento P. D.	No	0	No
3. Glendale P. D.	Yes	5	No
4. San Rafael P. D.	No	0	No
5. Richmond P. D.	No	1	No
6. California Highway Patrol	No	0	No
7. Huntington Beach P. D.	No	0	No
8. Chico P. D.	No	0	No
9. San Bernadino P. D.	No	0	No
10. Fresno P. D.	Yes	0	No
11. Anaheim P. D.	Yes	13	Yes
12. Long Beach P. D.	Yes	30	Yes
13. Pacifica P. D.	No	0	No
14. Whittier P. D.	No	3	No
15. Santa Monica P. D.	No	2	No
16. Fullerton P. D.	No	2	No
17. Corona P. D.	No	0	No
18. Santa Rosa P. D.	No	0	No
19. Contra Costa County S. O.	No	0	No
20. Pleasant Hill P.D.	No	0	No

APPENDIX B

DISABILITY RETIREMENT: WHO IS HIGHEST ACROSS STATE

Among larger public-safety agencies--those with at least 75 retirees--in the California Public Employees' Retirement System and selected other systems, these are the 20 agencies with the highest rates of job-related disability retirement.

Agency	Active Safety Workers in Plan	Safety Worker Retirees	Number Retired On Disability	Percent Retired on Disability
San Jose (Non-PERS)	N/A	476	386	81.1%
Oceanside	261	130	103	79.2%
Palm Springs	140	96	75	78.1%
Garden Grove	269	149	109	73.2%
Pomona	270	213	154	72.3%
Orange	265	97	70	72.2%
California Highway Patrol	N/A	3,931	2,678	68.1%
Compton	196	189	126	66.7%
West Covina	180	80	53	66.3%
Huntington Beach	353	165	107	64.8%
Oxnard	218	108	70	64.8%
Santa Clara County Central Fire Protection District	139	99	64	64.6%
Santa Rosa	242	99	64	64.6%
Redlands	123	86	55	64.0%
National City	126	86	55	64.0%
Santa Monica	274	249	159	63.9%
Sunnyvale	207	125	79	63.2%
Salinas	215	125	79	63.2%
Paso Robles School for Boys	N/A	103	79	63.1%
Monterey Park	121	89	56	62.9%

Source: San Jose Mercury News, October 7, 1992.

APPENDIX C

**NOMINAL GROUP TECHNIQUE
PANEL**

Richard Schmidt, Captain, San Anselmo, Calif. Police Department

Thomas D. Boyd, Lieutenant, San Rafael, Calif. Police Department

Ted Barnes, Chief of Police, Pinole, Calif. Police Department

Gaithel O. Ware, Lieutenant, Sacramento, Calif. Police Department

Paul Lee, Lieutenant, Contra Costa Community College District
Police, San Pablo, California

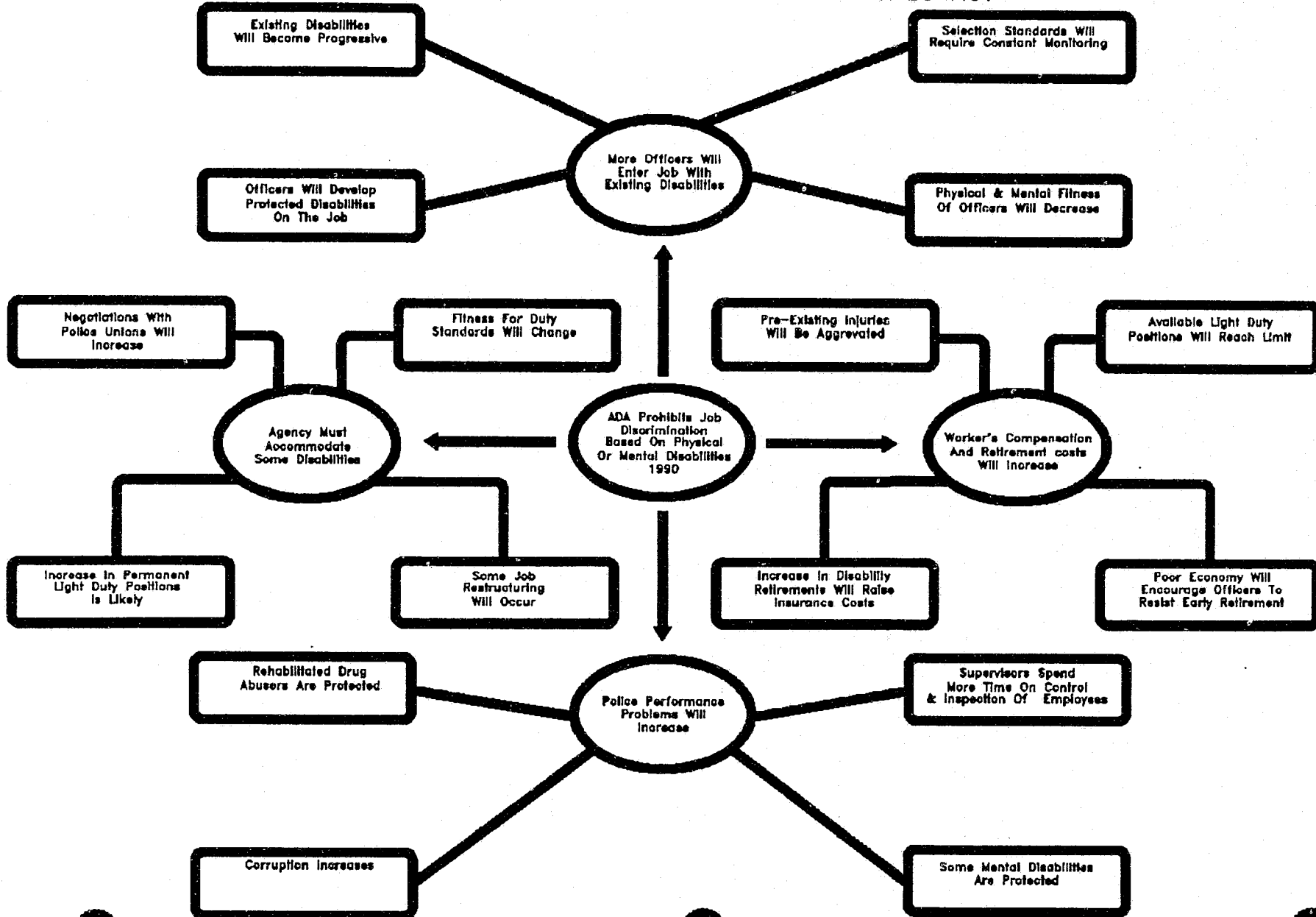
John P. Gurney, Captain, Pacifica, Calif. Police Department

Greg Jones, Personnel Analyst, City of Concord, California

Peter Brown, President, Athens Administrators, Concord, California

RESULTS CHART

MANAGING THE DISABLED WITHIN THE SWORN OFFICER WORK FORCE
UNDER THE 1990 AMERICANS WITH DISABILITIES ACT



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APPENDIX E

TRENDS AND EVENTS

TRENDS

- Mandatory physical fitness programs in police agencies.
- Percentage of safety retirements due to personnel disability.
- Rate of disciplinary actions due to drug and alcohol abuse by sworn officers.
- Number of departments adopting community-oriented policing philosophy.
- Number of excessive force claims
- Work performance problems directed related to drug and alcohol abuse
- Impact of sworn police labor organizations on terms and conditions of employment
- Mandatory assignment rotation policies
- Permanent specialized assignments for sworn officers
- Technological advances in non-lethal force devices
- Political influence on police strategies
- Civilianization of sworn police jobs
- Budgetary impacts of police, industrial disability retirements
- Acceptance of disabled by police organization culture
- Size of qualified recruitment pool
- Effectiveness of entry level testing at predicting success on the job
- Recruit field training time
- Job discrimination in the work place
- Budget demands to accommodate disabled employees
- Community demands for police services
- Number of light-duty jobs available for sworn officers

Trends (Concluded)

- Workers compensation costs attributed to injuries to sworn officers
- Employee physical and psychological rehabilitation programs available
- Legal liability costs related to successful employee discrimination suits
- Number of arrests involving resisting suspects
- Sick leave abuse by sworn officers
- AIDS infected sworn officers
- Frequency of sworn officers, mid-career, industrial disability retirement pensions

EVENTS

- ADA modified to exempt law enforcement
- Hiring discrimination suit, successful
- Employee disciplined for refusing to work with disabled employee
- Police strike over ADA
- Technological advancement creates at least 98% mobility for paraplegics
- State mandates physical fitness standards
- Expenses for work place accommodations reduce police budget at least 25%
- Marijuana legalized
- Non-intrusive scanning available for substance abuse
- PERS adopts an earnings offset for disability pensions
- Governor creates State mandated ADA review board
- Sworn police positions limited to emergency, first responders
- Ratio of sworn officers to non-sworn officers reduced to below 50%
- Police Department adopts mandatory physical fitness program

Events (Concluded):

- ADA causes financial bankruptcy of City
- Legislative mandate for task analysis of all police positions
- Telecommuting authorized for at least 25% of work force
- Police union sues to enjoin civilianization of sworn positions
- Police recruit retention rate drops to 60% (i.e., 40% wash out)
- Police agency fails to establish mission statement and strategic plan
- Police Department creates disability Claims Validation Unit
- Violent crime rates increases 25%
- Department initiates a community policing program
- Police officer substance abuse cases increase by 75%
- Police officers, disabled on duty, sue for retirement benefits
- Police union negotiates to eliminate all permanent light-duty assignments for sworn work force
- Court rules that mandatory, permanent, modified duty assignments eliminate promotional opportunities

APPENDIX F

Participants in a Modified Delphi:

Mark Ernst, Lieutenant, Administrative/Personnel Division
Concord, California Police Department

Barry Dansie, Sergeant, Commander/Planning Research Bureau
Concord, California Police Department

Susan Jones, Sergeant, Commander/Community Relations Bureau
Concord, California Police Department

ALTERNATIVE POLICIES

- Ensure promotional opportunities for sworn officers in permanent modified duty positions.
- All sworn officers are required to meet physical qualification of street patrol officers.
- Department maintains mandatory rotation policy for all ranks, with maximum number of years in each assignment.
- All positions are considered to contain patrol officers' essential functions.
- No permanent modified duty positions.
- Applicants disqualified for any use of certain drugs within three years of appointment.
- Physical fitness program for all sworn officers.
- Reduce number of non-uniformed support positions to minimum required for essential services.
- Civilianize sworn positions to reduce budget.
- Supervisors are required to monitor workers' compensation claims of their employees.
- Devote necessary staff to in-house Claims Validation Unit.
- Rehabilitation of injured officers is priority.

APPENDIX G

ALTERNATIVE STRATEGIES

- Develop policies that promote safety and reduce number of disabling injuries to sworn officers.
- Develop an effective physical fitness program for sworn officers.
- Selection process improved to include polygraph and psychological screening as early in the selection process as allowable.
- Identify the number of sworn positions in the department that would qualify as modified duty.
- Establish the protocol for determining whether a sworn position qualifies as available for modified duty.
- Establish the criteria for validating disability claims.
- Restructure sworn positions to allow for potential, modified duty accommodations.
- Establish and define scope of effective Claims Validation Unit within the police department.
- Create a training program for police managers and supervisors in workers' compensation and disability pension issues.
- Analyze all sworn positions for essential functions.
- Explore acceptable reduction in non-uniformed, sworn officer positions.
- Civilianize current sworn positions that do not require police powers.

BIBLIOGRAPHY

Aaron, Titus. Judicial Limitations on the Investigation of Officer Misconduct. LAW AND ORDER, October 1991.

ADA's Effect on Existing Employees. PERSONNEL JOURNAL. April 1992.

Americans With Disabilities Act, 42 U.S.C. Section 12101.

Bosarge, Betty B., Ph.D. Implementing ADA Expected to Cost Law Enforcement Millions in Litigation Fees. CRIME CONTROL DIGEST Vol. 25, No. 51, December 23, 1991

Brown, Lee P., Equal Employment Opportunities for Individuals With Disability. Letter to Frances M. Hart, EEDC, April 29, 1991, IACP.

California Annotated Labor Code.

Davis, Gray. State Controller. Annual Report of Financial Transactions Concerning Public Retirement Systems. 1990.

Employers Split on What Effects ADA Will Have on Their Companies. HR FOCUS, July 1992.

Epps, Cheryl Anthony. Final ADA Regulations Published. THE POLICE CHIEF, October 1991.

Esposito, Michael D. ADA's Impact on Employee Benefits. HR FOCUS, July 1992.

Farenholtz, D. W. The Impact of The ADA on Developing Physical Abilities Standards. LAW AND ORDER, March 1992.

Federal Regulations, Code of, Volume 29, Part 1630, EEOC Appendix.

Flanagan, Catherine L. The ADA and Police Psychology. THE POLICE CHIEF, December 1991.

Frierson, James G. An Analysis of ADA Provisions on Denying Employment Because of a Risk of Future Injury. EMPLOYEE RELATIONS LAW JOURNAL, Spring 1992.

Frum, David, and Brennan, Jody. Oh My Aching - You Name It. FORBES, April 26, 1993.

Gabor, Tom. Rotation: Is It Organizationally Sound? FBI LAW ENFORCEMENT BULLETIN, April 1992.

BIBLIOGRAPHY (Continued)

Harrison, Emily. Public Safety Industrial Disability Retirements in California: A Challenge For The Personnel Spec... PUBLIC PERSONNEL MANAGEMENT, Fall 1986.

Higginbotham, Jeffrey. The Americans With Disabilities Act. FBI LAW ENFORCEMENT BULLETIN, August 1991.

Honig, Audrey, and Reiser, Martin. Stress Disability Pension Experience in the Los Angeles Police Department: A Historical Study. JOURNAL OF POLICE SCIENCE AND ADMIN., December 1983.

House Education and Labor Committee, Report of. HR(ELC)

International Association of Chiefs of Police (IACP). Building Integrity and Reducing Drug Corruption in Police Departments. Drug Corruption Program 88-DD-CX-K004, excerpt, THE POLICE CHIEF, January 1991.

Jamieson, David, O'Mara, Julie. Managing Workforce 2000, Gaining The Diversity Advantage. Jossey-Bass, 1991.

Johnson, Gary R. Industrial Disability Retirements: Potential Futures of The Public Employees' Retirement System. COMMAND COLLEGE PAPER.

Litchford, Jody M. The Americans With Disabilities Act. THE POLICE CHIEF January 1991.

Loyd, Steven M. Mandatory Physical Fitness For Duty Programs on Retention of Patrol Officers. COMMAND COLLEGE PAPER 1992

Mathis, R. William. How Workers' Compensation Injury Affects Police Officers. THE POLICE CHIEF, November 1983.

Mayer, Martin J. Americans With Disabilities Act: Some Dos and Dents. JOURNAL OF CALIFORNIA LAW ENFORCEMENT, 1992.

Phelan, Gary and Arterton, Janet Bond. Disability Discrimination in The Workplace. CBC, 1992.

Rice, Thomas W. Superintendent, Ohio State Highway Patrol, Comment Paper, Addressing The Proposed EEOC Rules Implementing The Americans With Disabilities Act. April 1, 1991.

San Jose Police Department, Article 39, Modified-Duty Assignment, MEMORANDUM OF UNDERSTANDING, 1992.

BIBLIOGRAPHY (Concluded)

Saxe-Clifford, Susan. The Fitness For Duty Evaluation: Establishing Policy. THE POLICE CHIEF. February 1986.

Scheid, Thomas D. and Gaines, Larry K. The Americans With Disabilities Act: Implications For Police Administrators. AMERICAN JOURNAL OF POLICE, 1991.

Shaller, Elliott H. Reasonable Accommodation Under The Americans With Disabilities Act -- What Does It Mean? EMPLOYEE RELATIONS LAW JOURNAL, Spring 1991.

Shelly, Kimball M. Permanent Light-Duty Assignments For Police Officers. JOURNAL OF CALIFORNIA LAW ENFORCEMENT, 1988.

Simon v. St. Louis County 735 F 2nd 1082 (1984)

Snyder, David A. The Americans With Disabilities Act.

Solomon, Charlene Marmer. What The ADA Means to The Non-disabled. PERSONNEL JOURNAL, June 1992.

Stuessal v. City of Glendale. 141 Cal. App. 3rd 1047 (1983)

Thornton, Elizabeth M. and Scuro, Joseph E. The Americans With Disabilities Act. LAW AND ORDER, March 1992.

Vaughn, C. Roland III. IACP's Response to The Americans With Disabilities Act. THE POLICE CHIEF, December 1991.

Wellman, Robert J. and Kelly, Richard E. and Trapasso, Philip A. Predicting Accident Proneness in Police Officers. JOURNAL OF POLICE SCIENCE AND ADMIN., March 1988.

Wilkins, Steven C. Managing Disability Claims and Retirements: A Prescription For the California Highway Patrol. COMMAND COLLEGE PAPER, 1990.

Workers Are Willing to Accommodate Co-workers With Disabilities. HR FOCUS, July 1992.

Wright, Marilyn and Wright, Ronald. Return to Work For The Injured Law Enforcement Officer. JOURNAL OF CALIFORNIA LAW ENFORCEMENT, 1989.