

LAW ENFORCEMENT MANAGEMENT  
INSTITUTE

ASPECTS OF IN-SERVICE TRAINING  
FOR PEACE OFFICERS

A RESEARCH PAPER  
SUBMITTED IN PARTIAL FULFILLMENT  
OF THE REQUIREMENT FOR  
MODULE III

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NOVEMBER, 1992

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## **CHAPTER I**

### **INTRODUCTION**

#### **STATEMENT OF THE PROBLEM**

The proposed research activity is the result of a concern the researcher has recognized in the field of in-service training for Texas peace officers over the past six years. This concern has been fostered by the observation of, and participation in, the disjointed and uncoordinated efforts between trainers and trainees to teach peace officers about the functional elements of the police role. There is a notable lack of continuity to in-service training that does not contribute to the career development of professional officers. The increase of vicarious liability suits filed against police agencies, their administrators and their officers may result from, or be related to, inadequate or improper training.

## **PURPOSE**

The purpose of this study is to explore three very important areas of in-service training, to emphasize their relationship in the proper development and training of peace officers, and relationship to the vicarious liability issue. The focus of the study will be on a) In-Service Training of Peace Officers: historical background and status quo, b) Importance of In-Service Training: the impact of vicarious liability, and c) Need for Proper Training: human resource development.

## CHAPTER II

### NEED FOR RESEARCH

Human resource development has been a major issue in the private sector for several years, but has largely gone unnoticed in the peace officer profession. Recognition of the complexity of the police role in modern society should be the primary reason for emphasis on educating the peace officer in a developmental manner. This complexity, with its attendant contradictions, may contribute to the growing number of lawsuits against police, and is most evident in the field of in-service training for peace officers.

Today, police supervisors, as well as their agencies, may be held liable if it can be shown that inadequate or improper police training contributes to injury or violates a person's civil rights. A good training program not only increases the effectiveness and safety of the officers, but it serves to help reduce liability. Proper developmental training can be designed to enhance career development, benefiting the community, the individual and the department.

A computer generated search by the researcher in the area of developmental, in-service training for peace officers turned up a moderate amount of information, much over twenty years old, and very little within the last eight years. It would seem that a subject of this importance would generate much more study.

After contact with numerous trainers, officers, and academicians, the researcher chose to address three specific aspects of officer training that seem to emerge as recurrent concerns. Many of those contacted felt that training has been without guidance, and that the body of research in this area needs to be expanded. Burke noted that "Until training is submitted to systematic and carefully controlled research and evaluation, management will continue to use or discard a tool of unknown worth" (Burke 1975, p.72). This sentiment about further research prompted the researcher to design this study to help those who are, or will be, in management positions learn more about the importance of developing sound in-service training programs for peace officers.

## CHAPTER III

### AREAS OF IMPORTANCE

#### **IN-SERVICE TRAINING OF PEACE OFFICERS: Historical Background and Status Quo**

Prior to the mid 1960's, concern for police training and reform existed largely on the local level and then only after exposure of corruption or wrongdoing (Goldstein, 1980). For some years before 1960, public concern was very high for a short while, supporting reform and efforts to bring police in line. In many cases, some sort of review or commission was established to deal with the problem, only to fashion a remedy or solution and find that the initial concern for change had vanished. When this interest was absent, so was the concern of those public officials holding the purse strings, and money was not available to carry out police training or other social action or public safety programs.

Civil unrest in the 1960's caught a whole generation of peace officers unprepared to deal with civil disobedience problems. Since the Watts riot in 1965, administrators have especially been looking inward, examining their officer's training needs for the future.

Between the years of 1965-1970, five distinct presidential commissions were formed relating to peace officers. Two of these, the President's Commission on Law

Enforcement and Administration of Justice (referred to as the President's Crime Commission) and the National Advisory Commission on Criminal Justice Standards and Goals, focused on police personnel management and placed special emphasis in the area of college education. While suggestions for improvement have not been rare in the past, successful implementation of Commission recommendations has been rare (President's Crime Commission, 1968).

The surge of training activity in the 1960's was made possible mainly due to two federal government agencies, first, the Office of Law Enforcement Assistance, created in 1965, and second, the Law Enforcement Assistance Association (L.E.A.A.), a result of the 1968 Omnibus Crime Bill. Many projects were identified and researched with funds from L.E.A.A. The National Manpower Survey (1973-1976) was an early effort to tally the resources of all types of police agencies, exploring the direction they were headed in police personnel management. There was general consensus that manpower would increase over the next decade, calls for service would increase, and the complexity of police duties would increase. There was also agreement that training of the officers would have to grow proportionately to department growth, but this has not been the case.

During this time of change, the San Jose, California Police Department was developing what was to become a Field



Officer Training (F.T.O.) Program, which would serve as a model for other agencies in the years to come. This effort was a move to standardize blocks of instruction within the department for officers coming out of a basic academy. It was often stated that academies did not fully prepare a new officer for duty, and the F.T.O. Program was designed to augment their basic education. Many other worthwhile attempts were made in reform of basic officer training, but the general public did not look upon these changes as significant. While the changes did seem to increase control over officers, they did not seem to make much difference in criminal apprehensions, or reflect an increase in the quality of police service.

At this time, it was recognized that the basic officers themselves needed to be better trained for their work. This was best pinpointed by Shellow and Bard as they stated, "One of the highest priorities of any profession, if it is truly a profession, is the development of an appropriate educational methodology. Its absence is a major drawback for the emerging police profession." (Shellow and Bard 1976, p.30). Now that police service had been termed a "profession", it was up to agency administrators to live up to that definition. In-service training for peace officers has been a hit and miss, catch-as-catch-can proposition at best in the state of

Texas. Skinner noted that "The belief that training can't hurt, whether it is needed or not, is wrong" (Skinner 1980, p.1). While the content of most courses taught is excellent, there exists no continuity of training or evident career development paths for the basic peace officer to follow.

Training is an investment, and in viewing it as such, the historical fact is that criminal justice training has not been viewed very favorably. It seems that, over time, many faddish type courses, and unnecessary series of courses were produced to meet immediate concerns. This has been like treating a symptom instead of the disease. Today's administrator must seek a justification for his/her training dollar, as millions are now being spent for training. Skinner indicated that "hit and run courses are those efforts which originate from nowhere; conclude without anyone acknowledging accountability; and leave the organization as a victim." (Skinner 1980, p.6).

A decade earlier Saunders stated:

"The recent flurry of activity in a relatively few areas such as riot control and community relations, does not begin to deal with the full scope of the training problem. In every specific phase of training examined by competent authorities, serious weaknesses have been identified" (1970, p.140).

Recent efforts in police officer training often do not produce satisfactory results. The ongoing training needs of basic patrol officers have not been fully described, mainly

due to the numerous contradictions and conflicts that they deal with. Goldstein recognized those police functions of real and perceived expectations as a kind of compromise, often putting the police in no-win situations (Goldstein, 1970). When considering officer training, Goldstein mentions the following points:

1. Statutes usually require, and much of the public, in theory, expects, the police to enforce all of the laws all of the time. Yet the public will not tolerate full enforcement of many laws, and the police would be held up to ridicule were they to attempt full enforcement.
2. The public holds police responsible for preventing crime and apprehending all criminals, and the police endeavor to live up to this expectation. But the police, omnipotent as they may seem, are in reality limited to their ability to cope with crime.
3. The police are expected and equipped to act in a coercive and authoritarian manner in some situations. The same officers, however, must also be capable of being supportive and friendly in the vast majority of circumstances in which they become involved.
4. The image that police seek to project is one of complete neutrality, achieved by uniform objec-

tive application of their authority. But the incredible array of circumstances with which they must deal demands all kinds of flexibility in their day to day operations.

5. The police have come to be viewed as capable of handling every emergency. In reality, however, they have neither the authority nor the resources to deal effectively with much of the business that comes their way.
6. Policing is grounded on the existence of a system of criminal justice that operates with reasonable effectiveness in adjudicating guilt and imposing sanctions on those found guilty. But the system as it exists in many communities today, especially in large urban areas, is so crowded and disorganized that it is capable of neither achieving justice nor administering punishment.
7. Finally, Goldstein adds, there is a basic pervasive conflict between the crime fighting and constitutional due process which is inherent in the police function in a free society. The police are expected to deal aggressively with criminal conduct, but must do so in accordance with procedures that prohibit them from engaging in practices that, from the standpoint of poorly informed citizens, appear to be most expeditious and potentially most effective (Goldstein, 1970).

With the aforementioned aspects of the police function in mind, why is it that police agencies and administrators continue to ignore the long range perspective in developing their personnel? "The future of policing requires anticipatory guidance" (Tafoya 1990, p.187). There is a need for a more balanced perspective in the police training function. Cheeseboro stated that "... the training function in criminal justice agencies should be established to meet legitimate training needs that contribute to the organizations overall goals, and should be organized to execute the training process in the most effective, cost efficient manner" (Cheeseboro 1980, p.1). The role of basic peace officer in-service training in Texas should follow such an organized process. This structure should concentrate on the training development in terms of course guidance for experienced officers, with consideration given to formal education requirements.

#### **IMPORTANCE OF IN-SERVICE TRAINING: The Impact of Vicarious Liability**

Today, many agencies are under constant scrutiny, if not outright attack, for any discrepancy an officer might commit. The numerous lawsuits filed every year bear testimony to the litigation happy conscience of today's

citizens. A large percentage of suits filed against officers are directly related to training. Occasionally a link will be recognized between departmental policy and officer training, and a citizen will try to seek some amount of relief from the courts for any small training discrepancy. Many times an agency will settle out of court to avoid court costs and embarrassing litigation procedures. It seems that numerous counties and municipalities are serving as a gold mine to those who would recognize the most minute training inconsistencies. Often times these suits will substantially ruin, or even end the careers of officers who have actually committed no illegal act, since they were following departmental policy. These suits often serve as a convenient avenue to get to the "deep pockets" of governmental agencies. Local governments are exploring all areas to protect themselves against liability, and it is here that proper training can help tremendously. Meadows states that "it is the responsibility of law enforcement administrators and planners to assume a pro-active stance in developing adequate on-going training programs" (Meadows 1988, p.40). It is the function of these very training programs that greatly reduce the various kinds of liability that agencies are seeking to elude.

The term "civil litigation" refers to a personal action, in an ordered society, which is instituted to compel payment of the doing of something which is purely civil, i.e. belonging to the realm of the citizen as opposed to the realm

of the state. While we seem to be inundated with civil suits of all types today, these claims are not really new to man. Sulnick notes the first attempt at introducing the damage remedy into an appeal for what had heretofore been a felony in 1198 A.D. The origins of the following prayer trace back to Roman law:

"Serlo, the Son of Eustace, appeals Roger Fuber that in the Peace of the King he beat him and bruised him in a way that he would not have permitted for a hundred shillings...and that he is so maimed by the assault, and this he offers to prove against him by consideration of the court as one who is maimed. Roger denied the whole accusation,...It is considered that he (Serlo) is not maimed. Judgement - Serlo in mercy half a mark; pledge for amercement. Eustace of Selford let those appealed go quit" (1976, p. 4).

The history of police work has been spotted with numerous incidents of poor decisions and wrong doing. While some of these problems were purely accidental, there is a long list of those which were intentional. To address these inconsistencies there have been numerous types of suits brought against peace officers. Police liability cases are of several types, to include negligent appointment, negligent retention, negligent assignment, negligent entrustment, negligent supervision and negligent direction. Not the least of these, and currently the most popular, is negligent or improper training. "Negligent training is a source of liability when officers (regardless of rank) perform their duties without any training, or

training which is inadequate in scope" (Meadows, 1988, p.3). Most often these types of suits involve shootings, use of force, and pursuit practices. Plaintiff attorneys may seek information about training practices in departments and have done so in the past to seek successful relief (Dilllenbeck v. City of Los Angeles, 1968).

While the effects of the L.E.A.A. through the late 1960's were of good intention, it was even recognized a decade later that few advances were made in the area of police training. Marstensen & O'Neill (1975) recognized that "Recent publications have noted that police training, when related to need, is woefully inadequate". The authors went on to state that:

This disjointed and uncontrolled effort, in many instances, between the police and academicians, has resulted in a sporadic training effort. It is usually dealt with in a haphazard, undirected state without any directed end" (1975, p. 189).

Marstensen & O'Neill may have had several cases in mind when they penned their opinion. Some previous cases included officer discretion as opposed to department policy (Barr v. Mateo, 1959), an off-duty officer accidentally discharging his weapon (Peer v. Neward, 1961), and (Beverly v. Morris, 1972), a police chief held liable for improper training and supervision. There is a case that is often cited in vicarious liability study involving failure to establish procedure and train personnel. It involves protection against damages resulting from inattention to a plaintiff's diabetic condition as a prisoner, Dewell v.



Lawson, 489 F.2d 877 (10th Cir. 1974). The sustained allegation was that there was a failure to adequately train subordinate officers in necessary skills, and it was held that there was a sufficient basis for liability.

In the earlier days, case law dealing with the issues of negligent training was minimal. There has been, however, an increase in suits of 10,861% (Ludlum 1991, p.3). This figure represents the total filings of all damage suits, in all courts over the past sixteen years against law enforcement officers and their agencies through July, 1990.

Many experts agree that even this figure is underestimated, and that the chance of a peace officer being sued for damages over a thirty year career are virtually assured, and a large proportion of these potential suits are related to training inadequacies.

No discussion of vicarious liability in training would be complete without mention of 42 USC 1983. It was one of five statutes enacted by Congress following the Civil War designed to address violations of constitutionally protected civil rights. The 42 U.S.C. 1983 statute is the most often utilized and litigated. This statute opened federal courts to private citizens as a remedy against wrongs enacted under state law. Section 1983 provides:

Every person who, under color of any statute, ordinance, regulation, custom, or usage of any state or territory, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and its laws, shall be liable to the party injured in an action at law, suit in equity, or proper proceeding for redress (Stafford, 1987).

Mitchum, citing Monroe v. Pape, 365 U.S. 167 (1961), states that "As a result of the new structure of law that emerged in the post-Civil War era - and especially the Fourteenth Amendment, which was its centerpiece, the role of the Federal Government as a guarantor of basic federal rights against state power was clearly established" (Mitchum v. Foster, 1972).

The courts generally recognize that in order for a citizen to prevail, he must show two elements. The first is a deprivation of a right, privilege, or immunity secured by the Constitution, and the second is that the defendant committed the wrong while acting under the color of statute, ordinance, regulation or custom (Gomez v. Toledo, 1980). Plaintiffs seeking 42 U.S.C. 1983 actions in negligent training cases must generally show that the alleged wrong doing constitutes a municipal "custom or policy". Section 1983 suits may be framed as official capacity suits, or personal capacity suits, and sometimes as both.

The link recognized between employee and supervisor establishing vicarious (supervisory) liability in Section 1983 suits is described by two precedents. The first is Rizzo v. Goode (1976), which requires plaintiffs to establish this "affirmative link" between supervision and the acts of a patrol officer. The second is Monell v. Department of Social Services of the City of New York (1978) which exempts municipalities from responsibilities of their employees. In answer to these two difficulties, plaintiffs have tried to tie the link between the supervisor of patrol officers and their subordinates' street level actions. What makes the connection is the relationship of departmental policy and action, which will hold supervisors responsible for their instructional and supervisory functions. Anechiarico states that, "Both empirical evidence and the logic of Section 1983 indicate that suits against the leadership structure may be an efficient and effective means of reaching illegal practices and policies" (1984, p. 231).

The term "*respondeat superior*", or "let the master answer", has begun to take on a whole new meaning to law enforcement agency supervisors. del Carmen notes that:

The usual allegation in these (failure to train) cases is that the employee has not been instructed or trained by the supervisor or agency to the point where the subordinate possesses sufficient skills, knowledge, or abilities required of him or her on the job. The rule is that administrative

agencies and supervisors share a duty to train employees, and that failure to discharge this obligation subjects the supervisor and agency to liability, if it can be proved that such violation was a result of failure to train or improper training" (1989, p. 107).

Antieu (1973) suggests that agencies should structure incentives and sanctions for their employees since these governments "act through" their officials. The emphasis in Monell on action "pursuant to official municipal policy" may not allow responsible officials to go unpunished.

The leading case on municipal liability is Monell v. New York City Dept. of Social Services, 436 U.S. 658 (1978). The court held that a municipality is a "person" (as the term is used in Sec. 1983) and will be liable for acts which the municipality has officially sanctioned or ordered. Although Section 1983 does not hold the city or municipality responsible for an officer's actions, the policy makers or management are still held responsible for actions that they knew about, or should have known about.

When speaking of policy, it would be necessary to distinguish between what actions are actually required, and those that are merely custom, and are condoned. Singular incidents of misconduct can not be defined as customs, City of Oklahoma City v. Tuttle, 471 U.S. 808 (1985). In this case the court said that municipal liability would be

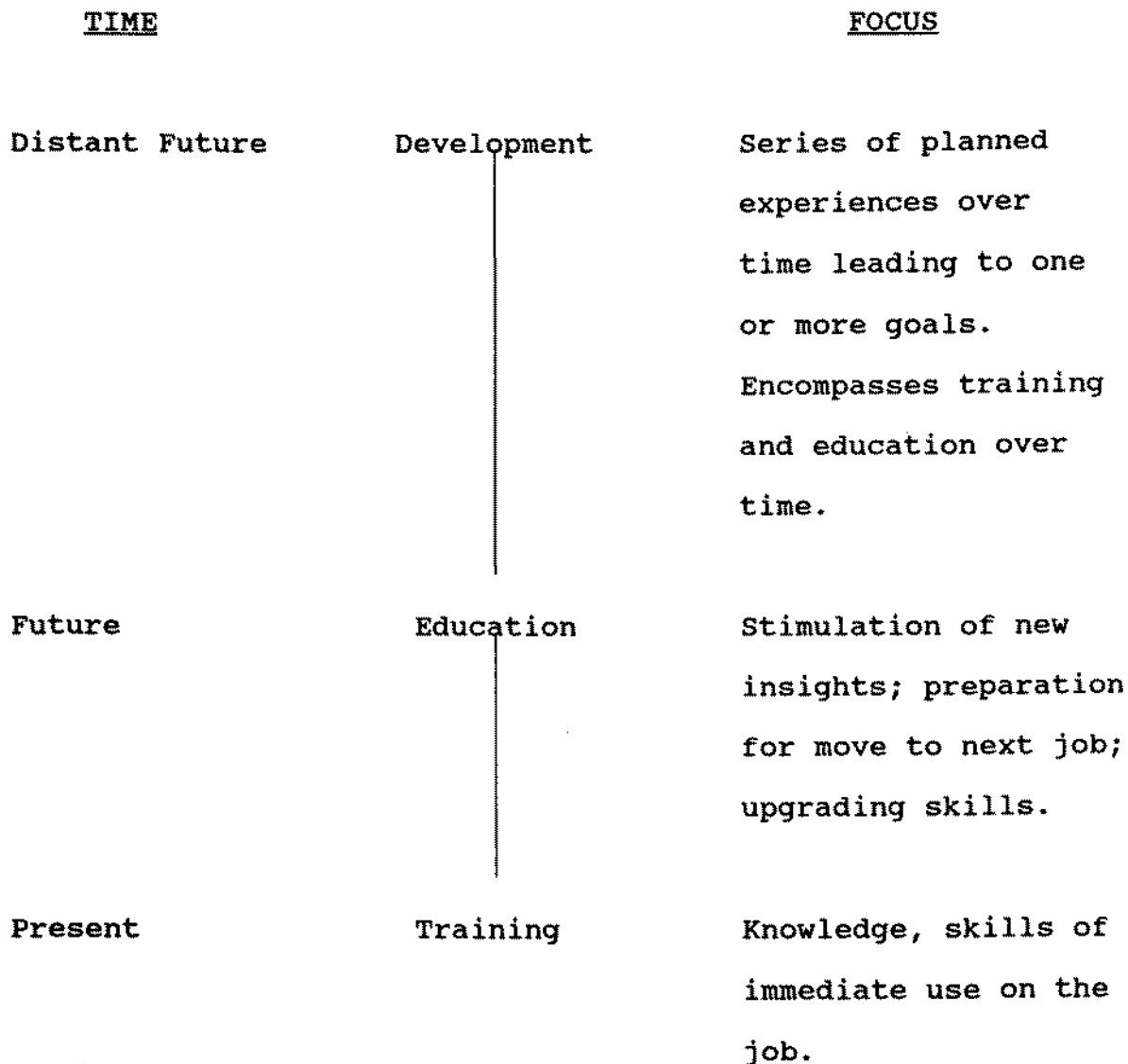
possible only if proof of the incident had included proof that the injury was caused by an unconstitutional policy attributable to the city's policy makers. However, knowledge of potential problems and failure to correct them has held supervisory defendants liable when they knew, or should have known, of actual or potential problems, and failed to correct or prevent them, (Buitterez-Rodriguez v. Cartagena, 1989). Section 1983 cases can be avoided by pro-active training of peace officers, and understanding the link between officer actions and supervisory responsibility.

#### **NEED FOR PROPER TRAINING: Human Resource Development**

General principles of adult education focus on the training, education, and development continuum. It features a long term image, sometimes spanning three years or more. This continuum is intended to groom individuals for specific positions with experience and skills that will be needed in the future. Sredl (1987, p.25) illustrates these principles in the following figure:

**THE TRAINING DEVELOPMENT CONTINUUM**

(Adopted from Sredl, 1987)



Human resource development and adult education represent subsequent growth, emphasizing a long term aim. Human resource development practices that create individually oriented changes are tailor made for peace officers. They are adults and respond to principles of adult education.

Long, recognized the increasing academic interest in the education of adults, stating that previous research by Thorndike may have underestimated the adult's power to learn by the emphasis on learning rate (1983, P.69). The polling of learner experiences, dictated by career needs, emphasizes the importance of androgogy and how it is now a valid concept as described by Knowles (1984, p.417). Thus, each officer is a unique individual with their own abilities, motivations, aspirations and perceptions. Although their jobs vary somewhat, they still need the ability to perform to the level of their innate talents.

The need for research activity in the area of in-service training for peace officers has been recognized by Goldstein:

"The absence of a great number of experiments aimed at improving in-service training should be a matter of great concern, for the financial burden of such training will require that there be demonstrable proof of its value before administrators will be willing to argue more aggressively for making it a permanent part of their agencies' operation" (1977, p.279).

A six year observation of, and participation in, the field of peace officer training by the researcher provided initial interest in this problem. In Texas, there is no statewide organized, developmental type of in-service training allowing an officer to obtain a training goal or end. In most instances agencies will take notice of upcoming courses, see

who can go according to the schedule, because "...somebody ought to go to that school", and assign them to go. This haphazard approach to training results in officers that know very little about several things, and not much about anything, and, of course, training as it is often conducted, may be essentially valueless. As Craig has stated:

"It is important to recognize that a favorable reaction to a program does not assure learning. All of us have attended meetings in which the conference leader or speaker used enthusiasm, showmanship, visual aids, and illustrations to make a presentation well accepted by the group. A careful analysis of the subject content would reveal that the speaker said practically nothing of value, but said it very well" (1967, p.18.10).

Indeed, many officers have sat through courses and received a certificate of training, but in reality it only meant that they were exposed to the material, not really educated about the subject matter.



## CHAPTER IV

### FUTURE APPLICATION

Three important areas have been addressed in this project in the field of in-service training. The challenge now is to apply the lessons learned in our historical background to upgrade in-service training, and reduce vicarious liability to departments. This should be done with an emphasis on the proper career development of human resources.

These applications should be primarily directed to small and medium size departments. This is not to say that many large agencies don't have anything to learn, but the average smaller agency needs to more readily adapt to newer concepts in order to increase the viability of their training (Field Training Quarterly 1991, Vol. 6 No. 3).

This is the age of "cut-back management". Tighter allocations of fiscal resources have hit small department training budgets hard, accelerating a concern for the improvement in future employee performance. Administrators have had to rethink their traditional methods of training for maximization of their training dollar. Sokolove (1989) has

pointed out that there is a great need for post-basic instruction, but many have never gotten away from embracing the "shotgun approach" to training. He recommends the implementation of a five-step process consisting of basic certification instruction, post basic orientation and training, intermediate job/task skills development and on-going proficiency training and certification.

The orientation phase of Sokolove's plan is much like the Field Training Officer (F.T.O.) programs now in vogue. These blocks of instruction serve as a sort of safety net provided by an agency for a new employee. For a period of time the new officer has a buffer zone in which to make a few mistakes in the company of a seasoned officer. He or she is allowed and expected to ask as many questions as necessary to insure that any undetected weaknesses in their basic training are handled. This period gives the agency training personnel time to evaluate strengths in these new officers as well, for possible reference in future fields.

Basic training, by definition, provides an officer with preparatory level skills to function on a street level of service delivery. This is a building block that must be built on, not only by experience, but by proper training. Proper training is distinguished from improper training through the catch-as-catch-can analogy used earlier in this study. The absence of planning of an officer's training and development leads to several uneven areas of training in a department. While levels of training may be as varied as the number of officers in the agency, small to medium size

agencies have a unique ability to monitor individual training more closely, benefiting their officers with career guidance.

These recommendations are not intended to be something that is done to an officer, as much as something to be planned with and executed by the officer. The input of the employee is important in that it encourages officer involvement in training decisions and reinforces perceptions of ones individual worth.

This system, if not properly managed, may do more harm than good. Training personnel should address individual career path aspirations with the agency goals in mind as well. It may be recommended that an agency present a set of clear choices to its employees, articulating departmental goals. The researcher foresees a set of "modules" of training that may be chosen from. Officers may study these choices and pick one to follow. These modules are closely related to what a college student would call a degree plan. It provides a map of courses that build on each other, mutually supportive of an intended goal. These modules or intermediate training may be identified in terms of forty (40) hour blocks to be completed in two year periods.

Every law enforcement agency employee represents a great investment in training and certification. This development program would provide for the best possible return to the department in its investment, while giving its officers career guidance and planning.

Training is the pivotal point in agency success. It takes a large commitment on the part of all concerned. The researcher feels that it is imperative that results oriented planning be implemented, and that strategic goals be defined by departments. It would present a good opportunity for smaller and medium-sized departments to shine, utilizing their full capabilities to produce consistently high quality law enforcement services.

It is generally accepted that a strict administrators views, beliefs, values and attitudes are adopted by the department's personnel. A forward thinking administrator would be wise to subscribe to a training continuum for his department. There are numerous methods available that are appropriate for most departments. A careful review of these opportunities and implementation into departmental goals would be a key factor in a successful department.

This study has sought to illustrate a need that should be studied on departmental levels, that would build on historical lessons learned and provide a map for avoiding vicarious training liability problems. The larger picture shows the need for proper career development and investment in human resource capital. In a time when training dollars are watched very closely, an articulable program for specific training guidance is not only favorable, but defensible in cost-benefit analysis.

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