

***THE BILL BLACKWOOD
LA W ENFORCEMENT MANAGEMENT INSTITUTE OF TEXAS***

***Assessing the Need for Change in the Pflugerville
Police Department Performance Evaluation System***

***A Policy Research Project
Submitted in Partial Fulfillment of the
Requirements for the Professional Designation
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ABSTRACT

Police departments around the country bear an enormous obligation to the public, as well as it's own personnel, to hire, develop and maintain the best qualified police officers. In order to successfully attain these goals police departments must evaluate the performance of its officers on a regular basis and in a uniform manner. I have found very little legislation pertaining to this subject, however, ex-employee's are increasingly suing in regards to anti-discrimination laws, employee's rights, job tenure, and being treated unfairly. (Siniscalco pg1). Federal law state's any personnel practice that results in the selection, transfer, training, retention, or promotion is subject to two specific sets of federal guideline's. (E.E. O. C. 1970) and (CIVIL RIGHTS ACT 1964).

The purpose of this research project is to propose a policy regulating the performance evaluation process for the Pflugerville Police Department. The ideal performance evaluation policy will establish standards for employee appraisals free of unlawful bias. My primary intent is to establish a performance evaluation that is accurate, efficient, uniform and is easily adopted, customized and administered by any police department. The only budget constraint will be several man hours being spent developing a task analysis for every position in the department.

This research is based on information gathered through magazines, periodicals, books, information obtained from other police departments and personal interviews as well as my own personal thoughts and opinions.

Departments that do proper evaluations will benefit from higher moral resulting in improved motivation for the department as a whole. The fore-mentioned results support this findings. Departments will also be more successful in keeping and maintaining the best qualified personnel. If the need to terminate an employee should arise the department will be better prepared, and will fare better in the court of law. I recommend that my department follow the recommendations mentioned in this report and on a regular basis review it and the law for any changes that may need to take place.

INTRODUCTION

Police departments around the country bear an enormous obligation to the public, as well as it's own personnel, to hire, develop and maintain the best qualified police officers. In order to successfully attain these goals police departments must evaluate the performance of its officers on a regular basis and in a uniform manner. Performance evaluations are critical to the success of any employer and police departments are no exception. Evaluations, however can only be effective if they are executed accurately and efficiently. Through the utilization of an effective and uniform appraisal system, employees are provided with the information that will let them know what aspects of their job they can improve upon. Employees who might not be performing to the departments' expectations may simply need a better idea of the duties expected of them, thus improving not only themselves but the department and community as well. (Tuttle Pg.1) This is just one advantage, that can improve your department through the use of effective performance appraisals. Ineffective performance appraisals, however can do more harm than as if no appraisal had been done at all.

The purpose of this research project is to propose a policy regulating the performance evaluation process for the Pflugerville Police Department. The ideal performance evaluation policy will establish standards for employee appraisals free of unlawful bias. My primary intent is to establish a performance evaluation that is accurate, efficient, uniform and what can be adopted, customized and administered by any police department.

In this report I will do a comparative analysis of the Pflugerville Police Department's current performance evaluation with those of other police departments. Furthermore, I will do a contrasting analysis of the same. I will also discuss the problems with the Pflugerville Police Department's current performance evaluation, for example: rate inconsistencies, the openness for personal opinions, the lack of a thorough job analysis combined with ineffective feedback and evaluator errors.

This research is being conducted for the benefit of the Pflugerville Police Department and it's employees; however, it could be used and modified by other departments who are considering a change in their performance evaluations. Upon completion of this project I will present my findings to the Chief

of Police of Pflugerville and Command Staff for review. Subsequently, it may then be presented to the Pflugerville City Council for consideration.

This research paper is based primarily on information gathered through magazines, periodicals, books, information obtained from other police departments and personal interviews as well as my personal thoughts and opinions.

I believe that I will be able to develop a better performance evaluation that will be free of bias; therefore allowing the department and the employees to reach their individual and combined goals. In addition, employees will have a better understanding of the department's goals.

HISTORICAL AND LEGAL

Police departments nationwide have been evaluating their employees since the early sixties. For many years people have been trying to come up with the best appraisal system. There is no one best appraisal system for every department. There are good formatted systems, but all need to be somewhat different because of our different job descriptions. I have found very little legislation pertaining to this subject, however, I was able to locate information stating that ex-employees are increasingly filing suit in regards to anti-discrimination laws, employee rights, job tenure and when they believe they have been treated unfairly. (Siniscalco Pg. 1)

Any personnel practice that results in the selection, training, transfer, retention or promotion of an employee is subject to two specific sets of Federal guidelines. The Federal rules are found in the Equal Employment Opportunity Commission (E.E. O. C.) guidelines on employee selection procedures, 35 Fed. Reg. 12333(1970), and in the Uniform guidelines on employees selection procedures, Civil Rights Act (1964).

In the new Houston Police Department Performance Evaluation System, the following rules are recommended to conform with E.E.O.C. and other laws:

- *Document the reasons for all employment decisions both positive and negative.*
- *Always base your appraisal on specific, clearly communicated job requirements.*
- *Never appraise an employee if you are unfamiliar with the job requirements or if you*

have insufficient contact to make valid judgements.

- *Avoid making subjective appraisals of an employee's personal characteristics.*
- *Never say anything in your appraisals about the employee's race, color, sex, physical impairment, national origin or veterans status.*
- *Base your appraisal on a number of observations not just isolated incidents.*
- *Keep all appraisal records private.*
- *Allow the employee to see and review the appraisal form.*
- *Employees should be made aware of performance standards in advance.*
- *Supervisors should make personnel decisions that are congruent with the evaluations.*
- *Do not write negative documentation unless you can prove that the information is correct.*
- *Avoid letting personal characteristics influence your evaluations. (Buenik Pg.14)*

Currently there are no state or federal laws requiring employee appraisals; however, it is recognized as the cornerstone document in the employee-employer relationship. A valid performance appraisal system is the foundation upon which responsible management rests. (Walsh Pg.95)

While conducting my research I came across case law on failure to evaluate. Michigan, along with several other states, has recognized a tort cause of action for negligent performance of a promise to evaluate. In Chamberlin vs. Bissell Inc., 547 F.Supp.1067 (W.O. Mich. 1982) a federal district court in Michigan reasoned that the employer had a contractual obligation to conduct these reviews, and also had an obligation to use reasonable care in performing the review. In this particular case the employer conducted an evaluation approximately two months prior to the employee termination. The employer had an obligation to tell the employee that dismissal was being considered, or was possible, if a drastic change in performance did not occur. This case clearly states the need to communicate to the employee any concerns about their performance. In the case Crenshaw vs. Bozeman Deaconess Hospital, F.Supp.217 (Montana 1985) the Montana Supreme Court held that the employer failure to interview all of the witnesses present during an incident, which the employer chose to use an

employee's performance evaluation and consequently contributed to the employee's dismissal, showed a lack of attention to the nature of probable consequences and fell below the standard established by law for the protection of others against unreasonable risk. The Montana Supreme Court concluded that the employee had established negligence as theory separate and distinct from a theory of breach of good faith and fair dealings.

The Fifth Circuit Court (Texas, Louisiana and Mississippi) more recently held that an employer violated Title VII by failing to criticize a black employee or counsel her about her deficiencies because it later discharged her for poor performance. These three decisions as well as others reinforce the value of comprehensive, objective and timely performance evaluations.

Other cases exist where negative evaluations were fabricated causing employees to be terminated. These situations have been the basis for lawsuits against both the employer and the supervisor personally. In the case Houston vs. Transmark Services Inc., 362 F.Supp.327 (5th Cir.1976) the supervisor was sued. The basis for the suit was a result of the company using false performance appraisals which caused the worker's termination.

These reasons are proof that performance evaluations need to be done in a uniform and accurate manner. Honest assessment of an employee's work is essential if the employee is to have fair warning in regards to their need for improvement thus increasing the odds that the termination will hold up in court. Accurate, efficient and uniform performance evaluations will help in determining if someone needs to be terminated and will reduce the risk of judgement in favor of the ex-employee.

REVIEW OF LITERATURE AND PRACTICE

Employee evaluations play a major role in the success of any organization. The employee evaluation is a tool that helps provide the motivation and acknowledgment needed for an employee to be efficient and productive on an everyday basis. There are numerous reports that support this belief. One such report was completed by Hamid Khan of Ball State University. The performance appraisal is a catalyst for the performer and an instrument for administrative action, only when justified. As stated by Khan, the performance appraisal is a tool that can single handily start a positive reaction of

performance. (Khan Pg.6) If the performance evaluations are done in an accurate, uniform and efficient manner, then the catalyst works towards exceptional work. If the evaluations, however, are not carried out in that manner then they can be a negative catalyst and become detrimental to the employee's performance. Furthermore, Khan feels that employee recognition should be at the forefront of an evaluation and not the expectation. To be fair and objective, employee evaluation's should center more on recognition of the employee's performance rather than mere expectation of an excellent performance. (Khan 1997 Pg.7)

A major problem with employee evaluations today exists because many administrations do them only to satisfy legal requirements or to just satisfy policy and procedure. A sizable proportion of sergeants believe that the major function of their department's appraisal system is to monitor employee performance for civil liability protection, while 17% state that it serves no purpose at all. (Walsh 1990 Pg.100)

Many supervisors prefer an informal process of evaluation because it gives them a greater amount of supervisory discretion. (Walsh 1990 Pg.100) This is obviously a common problem among police departments nation wide. The quality of employee evaluations should not suffer due to a supervisor's desire for power or discretion. Walsh noted that many supervisors felt negatively towards formal evaluations. Some of the supervisors' specific complaints are:

- Their systems lack managerial control.*
- Supervisors have very little input into the process but are it's major users.*
- Departments that have quotas, inspires officers to meet only the required amount.*
- Management is not concerned about performance, just making sure things run smoothly.(Walsh 1990 Pg.100)*

I surveyed ten officers and two supervisors from my department. All those surveyed believe to be necessary to do evaluations, but did not fully understand the system. All believed that because our current rating scale fails to explain what each number means the evaluation could fluctuate three to four points depending on who is doing the evaluation. Most agreed the evaluation does not assess the

performance very well and does not accurately describe subordinates work performance. Supervisors believe the evaluation is fairly useful as a management tool for improving performance and will motivate employee only somewhat at best. All supervisors surveyed had no training on our evaluation form or on how to do evaluations. All supervisors requested training on how to do accurate and uniformed evaluations. They knew little on how to recognize evaluating errors and how to give positive feedback. The evaluation process must have constructive feedback to the subordinate frequently so that the subordinate's performance improves. (Maddux Pg.50)

I have reviewed several performance evaluations used by law enforcement agencies around the state. All of the evaluation forms were different. See Table #1.

Evaluation Comparisons

<i>Law Enforcement Agency</i>	<i>Rate Inconsistencies</i>	<i>Lack of Thorough Job Analysis</i>	<i>No Training</i>	<i>Lack of Thorough Category Exp.</i>	<i>No Separate Job Analysis</i>	<i>No Goals or Feedback</i>
<i>Pflugerville PD</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	
<i>Round Rock PD</i>		<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	
<i>Tyler PD</i>			<i>X</i>			
<i>Williamson Co So</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	
<i>Harris Co So</i>			<i>X</i>	<i>X</i>	<i>X</i>	
<i>Richardson PD</i>			<i>X</i>	<i>X</i>	<i>X</i>	
<i>Georgetown PD</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>
<i>Abilene PD</i>						

Source: Pflugerville PD; Round Rock PD; Tyler PD; Williamson CO SO; Harris CO SO; Richardson PD; Georgetown PD; Abilene PD; Pg.82 70P Corporate

A sound performance appraisal system begins with a careful examination of the content of the job of the employee to be evaluated. (GENTRY. PERSONAL COMMUNICATION). What is the employee expected to do What sort of conduct or result constitutes good performance? Some used complicated rating number scales as large as from one through ten and as small as one through three.

The larger the scale, the larger the opportunity for personal bias and reduces internal consistency. (Maddux Pg.50) Three of the eight performance evaluations reviewed had problems in this area. Half of the evaluations showed lack of thorough job analysis. If an employee has a poor performance rating then perhaps it is because the person doesn't fully understand what is expected of them. Without a job analysis, "the defendants cannot determine or demonstrate that the evaluation system is related to job performance. "Walsh Pg.99)

Ninety percent of the department showed a need to train the supervisors who are doing the evaluation. Employers must take great care to select the right person for the job and to give him or her the training which is necessary to do that job effectively. (Baxter Pg.75) Training would help supervisors understand their tendencies to grade high, low or medium across the board. It would also help supervisors be more consistent on how evaluations are to be done. Six of the eight departments showed a lack of a thorough category explanation. This would measure what constitutes unacceptable, needs improvements, meets expectations or exceeds expectations if done correctly then there would be no room for personal bias. Six departments also didn't have separate evaluations for different jobs in the department, supervisor, patrol officers, investigator, DARE officers, etc. Each officer needs to be evaluated on what job they perform.

The only area found that ninety percent of the departments are doing good in was in the goal setting and feed back sections. Unfortunately this doesn't mean the evaluator is trained in the area or if it is even done. I talked with several different officers including some in my own department and 99% of them didn't believe that this was being done to their satisfaction.

As discussed previously Khan believed that the performance appraisal should act as a catalyst for the performer, in this case the employee. All of the performance evaluations that I reviewed gave the evaluator the choice. of giving the recipient a rating of Exceeding, Exceptional or Outstanding. Reviews of this nature can most definitely be a catalyst for even more exceptional hard work. As previously stated by Walsh, many supervisors feel that their evaluations are just a formality for civil liability protection or that they serve no purpose at all. Some of the reviewed evaluation procedures

supported this opinion. One Department, for instance, bases their evaluations on only four categories. In addition, they only offer three rating options for those categories with none of the category subsections having a rating scale. Their evaluation form also fails to offer instructions as to how the evaluation should be done, leaving most of the evaluation up to supervisor discretion.

DISCUSSION OF RELEVANT ISSUES

Throughout the development of effective performance evaluations several key issues continue to be important. Job description, as I previously discussed, is essential in showing an employee what is expected of them. When a police department does a poor job of communicating it's expectations of what an employee's job is a misalignment may occur. A misalignment occurs when the employee views their job to be one thing while the department expects something different. Unfortunately this kind of misalignment results in frustration and aggravation for both the employee and the department. It is essential when developing an appraisal system that it begins with a task analysis. (White Pg. 1)

Departments also need to omit any statement that may show any kind of bias. Departments, have a legal responsibility to produce evaluations which are free of any discrimination, such as age, sex, race, religion, nationality or physical impairment. (Brown Pg.44) Employees should be evaluated on job tasks that can be objectively measured, preferably on a numerical scale. Courts have held that subjective criteria can help hide unlawful bias. One way to help strengthen a subjective evaluation is to support it with actual work examples. One must also avoid terms such as "employee has poor communication skills" or "employee is stand offish." Such claims say very little about an employee's performance and will not help much if a lawsuit is filed. Also avoid using such terms as "employee is abrasive or aggressive." Instead, one should explain what is abrasive or aggressive about an employee. The supervisor should keep accurate data on his/her employee so that at the end of the evaluation everything is fresh and right in front of the evaluator. By doing this one can also support the performance review if the employee disputes or appeals the evaluation. The evaluation should also make it mandatory for the supervisor to list the employees strengths as well as his or her weaknesses. This will show the employee exactly what area needs to be improved on and then help make a plan for

them to improve.

Effective performance evaluations also require training supervisors on how to do them.

Supervisors should be trained on what constitutes good and poor performance. Supervisors need to understand the legal ramifications that could occur from a poor or inadequate evaluation. Supervisors also need to understand the most common pitfalls or rater errors.

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|----------------------------|--|
| <i>1. Contrast Effect-</i> | <i>Tendency to evaluate a person compared to other officers instead of job criteria.</i> |
| <i>2. Regency Effect -</i> | <i>Rating an employee on their most recent behavior instead of the entire rating period.</i> |
| <i>3. Halo Effect -</i> | <i>Rating an employee high because of one characteristic the rater likes.</i> |
| <i>4. Horn Effect -</i> | <i>Rating an employee low because of a characteristic the rater dislikes. (KILBOURNE,PERSONAL COMMUNICA TION).</i> |

Evaluation forms should not have complex or multiple rating levels, this only weakens appraisal defense and reduces internal consistency.

Evaluations should also be reviewed by a higher level of management. By doing this it will help in assuring that the evaluating supervisor is doing an evaluation properly. (Siniscalco Pg.3)

There really are no long term constraints for a department that wishes to develop a fair and uniform evaluation. Several painful hours will be spent in the development of a task analysis for each and every position in the department. A patrol officer's function will be different than a detective just as a D.A.R.E officer's function is different from that of a school resource officer. A sergeant's job is different than a lieutenant's job and so on. A department will also experience a lack of willingness to change and so they must understand the process of acceptance of change. Departments need to understand the process of acceptance of change.

- First there will be the denial of the need for change.*
- Second we must educate others on why we are changing.*
- Third we will feel a resistance to the change.*
- Fourth we will experience mourning, "I hate we have to do this".*
- Fifth we will experience a sort of chaos where no one is sure of what they are doing.*
- Sixth commitment stage - this is where we are all doing it the new way and it is*

working well. (Stephens)

It is sometimes difficult to change a current evaluation system and convey to the employees that the change is positive and progressive. One will also spend time training evaluators on how to effectively give a performance evaluation. There is a need to understand rater errors and all evaluators need to be consistent with their evaluation. To do a proper evaluation the supervisor will have to maintain a record of all good and bad performance issues displayed by an employee. Therefore, a supervisor will have to keep a daily log book on each of their employees.

Benefits of performance evaluations include a mutual understanding of the organization, it's goals, and it's employees job in relation to those goals(Newman and Hinrichs 1980). Another benefit is that employees receive a fair feeling of treatment and job satisfaction. Motivation to improve job performance will also leave the employee with a positive outlook on future evaluations. This is important especially for professional employees since a great portion of their self-image is derived from their work activities. The benefits of performance evaluations at their simplest enable the employee to plan and control their work better, to learn from their mistakes and profit from their successes. (Stewart Pg. 1)

By implementing a performance evaluation that is accurate, efficient and uniform there is little monetary cost involved. The police department will have to pay someone to perform a detailed job analysis for each different position within the department. The department will spend time developing the proper evaluations. Departments will also need to pay for the training of supervisors, to ensure every supervisor is in alignment with each other and the new performance evaluation policy. This training will consequently result in uniformity among the evaluations.

A non-monetary cost to the department involves effort to address the anxiety of employees who don't adapt well to change. On the other hand, the benefits truly outweigh the cost. The information in the evaluations help administrations make decisions about promotions, demotions, merit increases and discipline needs. Evaluations should also reveal where additional or different employee training is needed.

CONCLUSION

The purpose of this research is to evaluate the need for a policy establishing a performance evaluation for the Pflugerville Police Department that is free of unlawful bias and is accurate, efficient and uniform. Although there is no one perfect evaluation. I feel that this will be a model for other police departments to modify and adopt. Performance evaluations are essential to both the employer and the employee. If man's best friend is a dog, the employee's best friend is a strong evaluation. People can and will say almost anything in a courtroom; judges and jurors are well aware of this. Written evaluations do not change, however, despite the passage of time. (Malkovich, Brown Pg.43) Departments that do proper evaluations will benefit from higher moral resulting in improved motivation for the department as a whole. The fore-mentioned results support this finding. I also discussed problems with the Pflugerville Police Department's current evaluation, rating inconsistencies, openness to personal bias, and a lack of a thorough job analysis combined with ineffective feedback.

In conclusion, departments that have evaluations that follow the recommendations that I have documented will have happier and more productive employees. Departments will also be more successful in keeping and maintaining the best qualified personnel. If the need to terminate an employee should arise the department will be better prepared, and will fare better in the court of law. I recommend that my department follow the recommendations mentioned in this report and on a regular basis review it and the law for any changes that may need to take place.

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