



CITY OF PORTLAND, OREGON



Bureau of Police

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Directive 215.00, Member Performance Evaluations (formerly, “Sworn Represented Member Performance Evaluations”) Executive Summary

Introduction

During its investigation of the Portland Police Bureau, the Department of Justice (DOJ) focused on four foundational policy areas—use of force; training; crisis intervention and mental health, and accountability. As a result, the DOJ identified Directive 215.00, Member Performance Evaluations (formerly, “Sworn Represented Member Performance Evaluations”), as one of several Bureau directives related to member accountability that was in need of revision. The Policy Development Team updated the directive based on feedback received from the DOJ, Compliance Officer/Community Liaison (COCL), and members of the public.

Public Comments

The Bureau received few comments during both universal review and public comment periods, but the prevailing concern across all of the remarks was that the Bureau appears to be attempting to scale back or circumvent reviews of the Employee Information System (EIS), as required by the 2012 DOJ Settlement Agreement (“the Agreement”). Responders also expressed some apprehension about the disconnect between poor performance evaluations and corrective action, as well as the Bureau’s position regarding the public disclosure of members’ performance evaluations.

Performance Evaluations and the EIS Review

Member performance evaluations serve as a valuable professional development tool and means by which a member’s supervisor can document their strengths and deficiencies. Although these assessments are beneficial in this regard, there are some functional limitations. Pursuant to the labor agreement between the Portland Police Association (PPA) and the City of Portland, which is effective from November 2016 through June 2020, the Bureau cannot use performance evaluations as the basis for disciplinary action. However, there are other mechanisms in place to address poor service delivery, rule violations and member misconduct, such as the routine review of reports documenting all police action, as well as supervisory and administrative investigation procedures.

Furthermore, under the terms of the Agreement, Bureau supervisors are required to document any non-disciplinary corrective action to remedy training deficiencies, policy deficiencies, or poor tactical decisions in EIS. The EIS is used to monitor member force use—if an officer uses force in 20% of their arrests in the preceding six months and/or an officer uses three times more than the average number of uses of force compared with other officers on the same shift, the system will flag the officer and initiate a case management review. Additional thresholds that generate system alerts and trigger reviews are set forth in Directive 345.00, Employee Information System.

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The shift in frequency of the performance evaluation from semi-annual to annual, brings the Bureau in line with City practices and in no way adversely impacts other existing layers of review. The Agreement does not obligate the Bureau to conduct semi-annual performance evaluations or reviews of the information in EIS; rather, supervisors are required to carry out EIS reviews on three distinct occasions—prior to completing performance evaluations; when they have sworn members who are new to their command; and if a member reaches an established threshold, thereby triggering an alert in the system.

These two mechanisms—performance evaluations and the EIS, are useful tools for reviewing various aspects of a member’s performance; however, they are different tools operationally and functionally speaking.

Public Records Requests

A commenter cited Oregon Revised Statute (ORS) 192.420, Right to Inspect Public Records, when recommending that the Bureau release performance evaluations. The Policy Development Team kept the original language regarding disclosure intact, as the Bureau maintains its position of releasing that information when required to do so by law. The Bureau reaffirms that it has a responsibility to protect the privacy of members, within the parameters of the law. ORS 192.502(2) states that “information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy.” If it is determined that the public interest outweighs the privacy concern, the Bureau will comply with the request for disclosure.

We thank every individual who took the time to provide feedback on this directive. All comments received during both review periods are attached at the end of this document. We have removed all personal information to protect the privacy of commenters.

The Bureau’s Revised Policy

The revised directive includes guidance for the assessment of all Bureau members’ performance, and is no longer limited to sworn represented members. Moreover, the directive now contains specific information regarding performance standards and evaluation criteria for non-represented sworn members (i.e., members at the rank of Captain and above). The reorganization of the directive now provides clearer instruction to members regarding the performance evaluation process, EIS requirements, and member responsibilities during the evaluation process.

The Bureau recognizes that putting well-defined guidance and procedures in place is imperative to holding members accountable for their performance and behavior. The Bureau believes that the revised directive achieves this level of clarity; however, any suggestions to further improve this policy are welcome during its next review.

Directive 215.00, Member Performance Evaluations, will go into effect on February 28, 2018.

Published on 2/1/18

215.00, Member Performance Evaluations

Refer:

- DIR 315.30 Satisfactory Performance
- DIR 345.00, Employee Information System (EIS)
- DIR 1501.00, Field Training Program
- Performance Evaluation Forms (Intranet)
- BHR Administrative Rule 9.02, Performance Management

Definitions:

- Performance Evaluation: A formal assessment conducted between a supervisor and their direct report employee on an annual basis.

Policy:

1. The Portland Police Bureau recognizes the importance of open, meaningful dialogue between members and their supervisor regarding work performance and career development. The performance evaluation is designed to be a professional development tool used by supervisors to identify a member's areas of strengths and areas in need of improvement for a particular period of time.

Procedure:

1. Non-sworn and non-represented sworn members (i.e., those at the rank of Captain and above) shall have yearly performance evaluations conducted by their supervisor in accordance with Bureau of Human Resources Administrative Rule (HRAR) 9.02, Performance Management.
 - 1.1. In addition to the performance standards established in HRAR 9.02, Performance Management, non-represented sworn members shall also be evaluated on the following criteria:
 - 1.1.1. The timely and thorough review of After Action reports, to include modifying findings as appropriate;
 - 1.1.2. The consistency with which they ensure that all subordinate supervisors in the chain of command are held accountable for inadequate After Action reports and analysis, and receive appropriate corrective action, when necessary;
 - 1.1.3. The timely review of Employee Information System (EIS) records for employees under their supervision and new to their command, and timely entries into EIS when required;
 - 1.1.4. The timely and thorough completion of administrative investigation findings; and
 - 1.1.5. The promotion and coordination of community outreach efforts.
2. Members at the rank of officer in a probationary status during their first 18 months of employment shall have their performance evaluated in accordance with Directive 1501.00, Field Training Program.
 - 2.1. After completing probation, officers shall have yearly performance evaluations conducted as described below, beginning with the anniversary month of their date of hire.

3. Members in a probationary status following promotion shall have evaluations conducted by their supervisors on a bi-monthly basis.
 - 3.1. Supervisory probation evaluation forms shall be provided by the Personnel Division and shall be completed and returned to the Personnel Division in a timely fashion.
4. Non-Probationary Sworn Member Evaluations.
 - 4.1. Supervisor Responsibilities.
 - 4.1.1. Schedule an annual performance evaluation with each sworn member under their direct supervision.
 - 4.1.2. Complete a Performance Evaluation Form (located on the Intranet) for each scheduled review using the rating factors described within the form.
 - 4.1.2.1. The key rating factors include, but are not limited to, administrative, supervisory, and service functions.
 - 4.1.3. Forward the completed form to a second supervisor of the same rank for review, comment, and signature (if the evaluated employee works in a unit with more than one supervisor).
 - 4.1.4. Conduct the formal evaluation with the member. The formal evaluation should include the supervisor's observations and should include a discussion of each category of the performance evaluation. Topics for discussion during the review may include:
 - Recognizing and commending the member's performance strengths;
 - Identifying areas needing improvement;
 - Providing guidance on correcting areas of concern; and
 - Acknowledging individual accomplishments during the review period.
 - 4.1.4.1. The member being evaluated may provide comments in the designated sections of the evaluation form or attach a written response with additional comments as a supplemental document.
 - 4.1.4.2. If a member transfers to another division in the middle of a review period, the new supervisor will consult with the member's previous supervisor and review the member's previous performance evaluation for information regarding work performance and review employee's EIS performance tracker.
 - 4.1.5. As a component of the performance evaluation, supervisors shall review members' training records at least semi-annually to ensure members have completed necessary training.
 - 4.1.6. Send the original evaluation form with any written response submitted by the member through channels to the Responsibility Unit (RU) Manager or their designee following the evaluation meeting with the member.
 - 4.1.6.1. The supervisor will also forward an electronic copy of the completed performance evaluation and any written response submitted by the member to the Personnel Division in a non-editable format, e.g., PDF, for inclusion in the employee's personnel file (201 file) and the Bureau of Human Resources employee file.
 - 4.1.7. Complete each performance evaluation by the last day of the month in which a member's annual anniversary occurs.

5. RU Manager or Designee Responsibilities.
 - 5.1. Ensure performance evaluations are completed in accordance with this directive.
 - 5.2. Retain one printed copy in the member's Field 201 file at the RU.
6. Authorized and restricted uses of non-probationary member performance evaluations.
 - 6.1. Performance evaluations are not a disciplinary tool and shall not serve as the basis for discipline, discharge, or demotion.
 - 6.2. For Portland Police Association (PPA) and Portland Police Commanding Officers Association (PPCOA) members, these evaluations will not impact a member's contractual pay increases. For non-represented sworn members and non-sworn members, these evaluations will be considered in determining an annual merit pay increase in accordance with Bureau of Human Resources Administrative Rule 9.02, Performance Management.
 - 6.3. For PPA members, performance evaluations may be used as a basis to promote where all other promotional criteria between multiple candidates are basically equal.
 - 6.4. For PPCOA members, performance evaluations may be used as part of a full evaluation of a member's work history for purposes of promotion or specialty assignment.
7. Public Records Requests.
 - 7.1. The Bureau considers performance evaluations generally to be exempt from public disclosure. The Bureau will not release performance evaluations unless required to do so by law.

History:

- Originating Directive Date: 10/30/14
- Last Revision Signed: 01/30/18
 - Effective Date: 02/28/18
- Next Review Date: 08/28/18

Directive 215.00 – Website comments between 6/8/17-7/7/17 and 9/1/17-9/21/17

Date	Individual	Comment
2UR		
9/20/17		The AMAC was led to understand that reviews of the Employee Information System were mandated to happen once every six months, which was tied to a semi-annual Performance Evaluation. We have strong concerns that the Bureau is cutting back evaluations to just once per year.
9/20/17		The AMAC was led to understand that reviews of the Employee Information System were mandated to happen once every six months, which was tied to a semi-annual Performance Evaluation. We have strong concerns that the Bureau is cutting back evaluations to just once per year.
9/14/17		<p>DIRECTIVE 215.00 PERFORMANCE EVALUATIONS (previous comments April 2015 and June 2017)</p> <p>When Performance Evaluations were introduced, the community was promised the Bureau would be doing these every six months. Now with a stroke of the pen, the new Directive is reducing those to annual reviews. The best we can figure is that this is being done because most other evaluations (per Bureau of Human Resources) are done annually. But no other job has the level of contact with community members as police officers, who often put their hands on, use force against, and sometimes arrest people. Without a clear explanation, PCW must strongly oppose the reduction in reviewing officer behavior. The DOJ Agreement calls for review of an officer's training history semi-annually (paragraph 81) and at least one threshold for examining use of force is based on a six month window (paragraph 118).</p> <p>In our previous comments we noted that the Evaluations being barred for use as a disciplinary tool (previous Policy Section 2) makes no sense since officers with multiple complaints sustained against them (or one serious complaint) should be demoted or fired. The new version explicitly says the evaluation will "not serve as the basis for discipline, discharge or demotion" (Section 6.1). It still says Evaluations will not affect pay, except now the evaluation might add to merit pay for "non-represented sworn members and non-sworn members" (Section 6.1). It clarifies that Portland Police Association (PPA-not defined in the Directive) members can have their evaluations used for promotion if all other information between two candidates is the same (Section 6.3, old Policy 2). However, Portland Police Commanding Officers Association</p>

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		<p>(PPCOA-also not defined) members can have the evaluations used for promotions or specialty assignments (New Section 6.4).</p> <p>Section 7 (old Section 2) continues to protect the evaluations from public records requests except as required by law. As we noted before, information that is in the public interest including sustained misconduct allegations needs to be released. We wrote: "The people who repair Portland's street lights do not have the same kinds of interactions with the public as the police do. Thus their misconduct may be shielded from the public eye without the same potential consequences as officers who are found guilty of serious or repeat misconduct." The Directive should alert officers that such information might be released in the public interest.</p> <p>We appreciate that the Bureau, after our repeated suggestions, now defines a "201 file" as the personnel file (Section 4.1.5.1).</p>
1 st UR		
7/7/17		<p>What follows is proposed language. If clarification is needed, please contact [REDACTED]. Comments are offset with the word "comment" and are not a part of the proposed language.</p> <p>215.00 Sworn Represented Member Performance Evaluations 215.00, Sworn Represented Member Performance Evaluations 1st Universal Review: 6/8/17-7/7/17</p> <p>Refer:</p> <ul style="list-style-type: none">• Directive 345.00, Employee Information System (EIS)• Performance Evaluation Form <p>Definitions:</p> <ul style="list-style-type: none">• Semi-Annual Performance Evaluation: A formal performance evaluation to be conducted by a supervisor on an employee's yearly work anniversary and every six (6) months thereafter (e.g., a sworn represented employee with a hire date in March would be evaluated in March and September of every year). Evaluations are due the last day of the month in which the anniversary occurs. Each evaluation will cover the previous six (6) months of employee performance. Semi-Annual evaluations are for sworn represented employees who have completed their initial eighteen (18) month probation period. <p>Policy:</p> <ol style="list-style-type: none">1. The Portland Police Bureau recognizes the importance of open, meaningful dialogue between

members and their supervisor on the topic of work performance and career development. Supervisors will conduct semi-annual performance evaluations with each sworn represented employee under their direct supervision according to the rating factors set out in the performance evaluation. Other employees, including sworn non-represented employees, are evaluated in accordance with other City and Bureau policies and not this Directive.

2. Performance evaluations are not a disciplinary tool and will not impact an employee’s contractual pay increase(s). Performance evaluations will not be used in the promotional process unless there is a tie in score(s) among the ranked list of eligible candidates for promotion. Evaluations are meant as a professional development tool. Evaluations may be used as the basis for reassignment to other duties within the same unit, or for disarming an employee. Evaluations should be used to identify areas of strengths and areas needing improvement for a particular period of time and may include:

- Addition
- Comment: Article 59.2 of the Labor Agreement Between the Portland Police Association and the City of Portland states that performance evaluations are not to be used as “the basis” for “discipline, discharge, demotion, or involuntary transfer.” Reassignment of duties and disarming an employee are allowable within the labor contract.

2.1. Recognizing and commending member’s performance strengths,

2.2. Drawing attention to areas of concern,

2.3. Providing guidance on and required next steps to correcting areas of concern,

- Addition
- Comment: To correct issues, more than guidance is necessary.

2.4. Acknowledging individual accomplishments during the review period.

Procedure:

1. Supervisor Responsibilities:

1.1. Schedule a semi-annual performance evaluation with each sworn represented employee who reports directly to that supervisor.

1.1.1. A performance evaluation cycle begins and ends with the employee’s hire month anniversary date and every six (6) months thereafter.

1.1.2. Performance evaluations will be completed by the last day of the month in which the semi-annual anniversary occurs.

1.2. Complete a Performance Evaluation Form for each scheduled review using the rating factors as described in the performance evaluations.

1.2.1. The Performance Evaluation Form is located under “Forms and Reference” on the Intranet.

1.3. Forward to a second supervisor for review, comment, and signature (If more than one

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	<p>sergeant works in the same unit).</p> <p>1.4. Conduct a formal review of the evaluation with the employee. The formal performance evaluation review should include the supervisor’s observations and should include a discussion of each category of the performance evaluation.</p> <p>1.4.1. The Bureau member may prepare a written rebuttal and or add comments only in the area provided or they may attach their rebuttal and comments.</p> <p>1.4.2. If a member transfers to another division in the middle of a review period, the supervisor will consult with the employee’s previous supervisor.</p> <p>1.5. After meeting with the employee, send the original through channels to the Responsibility Unit Manager or their approved designee. The completed performance evaluation and any rebuttal will then be electronically forwarded to the Personnel Division in a non-editable format for inclusion in the employee’s 201 file and the Bureau of Human Resources employee file. One printed copy should remain in the employee’s Field 201 file.</p> <p>2. Public Records Requests:</p> <p>2.1. The Bureau will release performance evaluations as required to do so by law.</p> <ul style="list-style-type: none"> • Comment: ORS 192.420 grants all persons the right to inspect any public record of a public body in the state,” with limited exceptions. If the Bureau considers performance evaluations to be exempt from public disclosure, it should cite the Oregon statute or case law that it is relying upon to make such an assertion.
7/1/17	<p>DIRECTIVE 215.00 PERFORMANCE EVALUATIONS (last comments April 2015)</p> <p>As we noted in our previous comments (before this Directive had a number assigned to it and again in April 2015), it's not clear how a twice-yearly evaluation is explicitly called a "non disciplinary tool" which will have no impact on the officer's pay, when an officer who has had multiple complaints sustained against them-- or one serious complaint-- could (and should) be demoted or fired.</p> <p>The Directive only applies to sworn members who are represented by bargaining units, while non-sworn and non-represented officers will be evaluated by other means. So long as the evaluations are equivalent, we do not have a concern with this.</p> <p>Procedure Section 2 protects the evaluations from public records requests except as required by law. We assume this shielding of information was done at the request of the</p>

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		<p>Portland Police Association (PPA). As with misconduct information about police officers, we feel information that is in the public interest needs to be released. The people who repair Portland's street lights do not have the same kinds of interactions with the public as the police do. Thus their misconduct may be shielded from the public eye without the same potential consequences as officers who are found guilty of serious or repeat misconduct.</p>
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Finally, we repeat (for a third time now) our earlier comment that there is no definition for a "201" file as referenced in Procedure section 1.5