

## **DURHAM POLICE DEPARTMENT**

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### **POLICY #35.1.1**

### **SUBJECT: Performance Evaluations**

NOTE: This written directive is for the internal governance of the Durham Police Department, and as provided by RSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

## **PURPOSE**

To achieve its stated objectives, the Durham Police Department must be able to depend on satisfactory work performance from all its employees. Performance evaluation is measurement by the employee's supervisor of the worker's on-the-job performance of assigned duties. This directive deals with the principles of performance evaluation and the manner in which it is carried out.

## **POLICY**

It is the policy of the Durham Police Department to evaluate performance of all employees' semi-annually, probationary employees monthly, and probationary reserve police officers at least once each quarter, for not less than one year from the date the employee actually performs the duties of the position.

## **PROCEDURE**

- The Durham Police Department's ***Performance Evaluation Manual*** includes performance measurement definitions, procedures for use of associated forms, the responsibilities of the rater, and training for the rater.
- At the time of promotion to Sergeant, raters shall be instructed in the use of the Performance Evaluation Manual. Twice yearly, Sergeants, the Captain, and Deputy Chief shall be evaluated, to include the ability to evaluate others.
- The criteria found in the manual are specific to the tasks assigned to the employees being rated with separate criteria noted for patrol officers, supervisors, and secretaries.
- The employee's performance evaluation shall cover a specific period. At a minimum, each employee will be rated twice a year and the evaluation period will be the preceding six-month period.

- If the rater anticipates rating an employee as "Not Satisfactory" in the end-of-year evaluation, the rater shall notify the affected employee in writing at least 90 days prior to the end of the annual evaluation period. Any "not satisfactory" ratings found in the mid-year evaluation shall serve as notice for this purpose.
- 1. "Not satisfactory" ratings shall be supported by documentation in the form of counseling statements, training interviews, verbal warnings, or written warnings that shall be prepared at the time of any reportable incident. However, when incidents are documented one time without recurrence, raters should not find the employee as "not satisfactory" in the rated area; it is suggested that a "needs some improvement" may be more appropriate.
- As described in the manual, any rating of "not satisfactory" or "exceeds standards" shall be accompanied by explanatory comments.
- All performance evaluations shall be reviewed and signed by the Rater's supervisor.
- Each evaluated employee shall be counseled at the conclusion of a rating period to include the following areas:
  1. The results of the performance evaluation just completed,
  2. The level of performance expected, rating criteria or goals for the new reporting period, and
  3. Career counseling relative to such topics as advancement, specialization, or training appropriate for the employee's position.
- Each evaluated employee shall have the opportunity to review, comment on, and sign the completed performance evaluation report.
- A copy of the evaluation shall be provided to the employee upon their request.
- The employee may appeal the evaluation by requesting a meeting with the Rater's supervisor. If the employee is still unsatisfied with the rating received, they may appeal the rating by initiating the Grievance Procedure. However, the grievance shall be narrowly focused to the rating.
- The Department shall retain all performance evaluations after termination of employment, plus 50 years, in compliance with Chapter 33-A, Disposition of Municipal Records.
- Evaluations of Rater's shall include the quality of the ratings they give to employees. Raters shall be evaluated according to the requirements found in the Performance Evaluation Manual.

## DEFINITIONS

Citizen Complaint: Action taken by a citizen or employee to focus administrative attention toward any action or inaction by an officer or employee which the complainant considers to be illegal, contrary to proper procedure or conduct, or is in any manner prejudicial to that citizen or employee, the department, or community as a whole.

Use of Force: Any assault or confinement which the actor commits with the purpose of causing or which he knows to create a substantial risk of causing death or serious bodily injury or any use of force that when used is less likely to cause serious bodily injury or death.

Disciplinary Action: The Department's disciplinary system will consist of the following provisions, listed in order of progression:

- **Remedial Actions:** Informal counseling session with an immediate supervisor, Remedial Training or Professional Counseling.
- **Reprimands:** Formal Counseling, Oral Warning or Written Reprimand.
- **Disciplinary Actions:** Probation, not to exceed 12 months, Suspension without pay, Demotion or Termination.

Articulate Reasons: Any reason not specifically listed as a "Trigger" under the "Provisions to Initiate a Review" section, and a ranking officer can articulate that reason based on "specific and articulable facts", "taken together with rational inferences from those facts".

Misconduct or Misbehaviors: Unacceptable or improper behavior by any employee, both on and off duty.

Performance Evaluation: Measurement by the employee's supervisor of the worker's on-the-job performance of assigned duties.

## PERSONNEL EARLY WARNING SYSTEM

- A comprehensive Personnel Early Warning System is an essential component in the Durham Police Departments' overall performance evaluation system. Used in concert with the Performance Evaluation System, the Personnel Early Warning System is designed to identify those employees who may need some level of departmental intervention *before* potential problems arise.
- The Durham Police Department Personnel Early Warning System is facilitated by the utilization of pre-existing documents and those documents that will be developed as a matter of course.

- Documents to be reviewed as part of the Personnel Early Warning System includes (but may not necessarily be limited to) the following:
  - Performance Evaluations;
  - Internal Affairs/Citizen Complaints (regardless of conclusion);
  - Peer reported acts of misconduct or misbehavior;
  - Disciplinary Actions (to include counseling and reprimands);
  - Use of Force Reports;
  - Workmen’s Compensation Claims; and
  - On-Duty Motor Vehicle Accidents.

### **Provisions to Initiate Review**

- Triggers for the Durham Police Department Personnel Early Warning System may include:
  1. Any Performance Evaluation that reports a simple majority of criteria being rated as “Some Improvement Needed” or “Not Satisfactory”;
  2. Three or more Citizen Complaints in any 30 day period;
  3. Five or more Use of Force (other than to destroy an injured or sick animal) incidents in any 30 day period;
  4. Two or more Disciplinary Actions in any 30 day period;
  5. Two or more Workmen’s Compensation claims in any 30 day period;
  6. Two or more on-duty Motor Vehicle Accidents in any 30 day period; or,
  7. Any combination of three or more occurrences of any of the aforementioned triggers in any 30 day period; or,
  8. At the written request of any ranking officer based on articulable reasons that fall outside the scope of any the aforementioned triggers.

### **Agency Reporting Requirements of Misconduct and Misbehavior**

- Consistent with other sections of this manual, employees are required to report acts of misconduct or misbehavior of another employee to a supervisor immediately.
- Sergeants or those acting in that capacity for any period, are required to prepare a written memo or e-mail directed to the Deputy Chief of Police or Captain that articulates acts of misconduct or misbehavior; and, any time that one of the aforementioned trigger requirements are met.
- Having received a written memo or e-mail, the Deputy Chief or Captain must notify the Chief of Police that the potential for a Personnel Early Warning System review may be required. This notification may be made orally, in person, by memo or electronic means.

- Once notified, the Chief of Police may direct that the Captain conduct a Personnel Early Warning System review of the documents suggested above. All Personnel Early Warning System Reviews are to be conducted (or not) at the discretion of the Chief of Police.
- If the review reveals a pattern of behaviors that may indicate the need for departmental intervention, the Captain may recommend some type of employee assistance, including internal counseling, remedial training, formal professional counseling, or referral to the Town of Durham's Employee Assistance Program (EAP).
- All documents related to the Personnel Early Warning System review will be made a permanent part of the effected employees personnel file for the duration of their employment and thereafter until the employee would reach their 70<sup>th</sup> birthday.

### **Annual Review of System**

- Each year, the Captain shall conduct a documented evaluation of the Durham Police Department Early Warning system.
- Each year, the Captain shall conduct a documented review of the Durham Police Department Early Warning system.

### **Documentation of Job Description Maintenance and Availability for Performance Evaluations**

- Every four years, the Captain shall review the job descriptions of all employees to ensure they are current. The Durham Police Department will ensure that all personnel have access to the job descriptions by maintaining them in the desktop policy folder, as well as PowerDMS.