



Surviving a Bad Performance Review

[by Jamie Barnes]

This week, we examine a scenario that we hope you never have to face: a poor performance review. The impact of such a review can be lessened if you follow the advice offered in this article. In addition, you can even prepare yourself for the worst and arm yourself with useful replies to the criticisms you may expect.

Many lawyers, doctors and other professionals prefer to think of themselves as in business for themselves, merely using a group to provide office space, support services and occasional camaraderie. This assumed sense of personal independence undergoes a rude awakening when a senior partner calls you into his or her office to detail for you, without your asking, how you are perceived. Some of the thoughts that may go through your head at a time like this are:

"Just who the hell is (s)he to be judging me?"
"All that negative stuff has been coming from X, who has been talking behind my back. I knew I couldn't trust him/her." "(S)he acted as if (s)he thought I was pretty cool. Now the truth comes out!" "I feel dirty. I am neither as good or as bad as they say." "Why is all this ancient stuff being drudged up and thrown in my face?"

This article examines the following business realities of your legal career. First, I examine the fact that your legal career, like any business, needs to have a marketable product. Second, this article looks at the importance of your "brand" to marketing your product. Third, this article concludes by exploring how to market your product for the maximum possible success. While this article has been written specifically for attorneys, most of the material here also applies to individuals in other roles within the legal profession.

Recognize yourself in any of this?

Had similar feelings? They are normal. By understanding anyone's normal self-centered and defensive reaction to being judged, and realizing that your feelings are automati-

cally programmed to respond self-protectively in such situations, you have won half the battle; because with understanding can come a modicum of control.

You can't avoid professional criticism.

You may have strong opinions as to the innate fairness of the appraisal process. You may be unfairly damaged and have documents to prove it. You may be thinking that you're being criticized for stuff that happened months ago and is no longer relevant. Regardless, the criticism hurts and remains potentially lethal as long as it sits in some partner's drawer already signed off on by other partners. Well, if you've ever felt abused by the performance-review process, you're not alone. Such 'heart-to-heart' talks trouble everybody. What you need is a survival strategy to deal with performance appraisals. Otherwise they can drive you nuts.

Then there is this alarming news: As law firms continue to be operated more like businesses (as opposed to being run like private men's clubs), the performance appraisal becomes an important tool for weeding people out as well as identifying top performers. According to Ellen Wayne of the New York Law Journal, "Evaluations have taken on an importance they never had before. Associates are not only judged on the basis of their work skills and performance targets but now have the added anxiety that termination could be the result of a less than glowing review."

Most of us would agree that some sort of evaluation system is needed for everyone.

The problem is how to construct a system certifiably free of bias. This may be impossible: Evaluation systems are constructed by humans and humans are fallible. Furthermore, it is difficult if not impossible to categorize and quantify the qualities that identify perfection in professions such as the law, meaning billable hours alone do not tell the tale. There is something called 'partner potential' which remains both on the appraiser's mind and on yours. How does one evaluate that?

Let's deal first with the emotions that surface any time you receive a performance appraisal. Unless these emotions are well understood and contained by you at the start, a rational discussion of the performance appraisal as an institutional tool -and how you can successfully deal with it-- cannot take place.

Reason Versus The Emotional Self

Nothing is more threatening to one's inviolable sense of self and its importance than to have a relative stranger sit down and dissect you both professionally and personally. First of all, the mere fact of delivering the appraisal solidifies that person's superior rank. This relative stranger also is acting summarily as judge and jury, dispassionately (hopefully) enumerating your strengths, faults, successes and failures and summarizing all this with either a 'thumbs up' or 'thumbs down' that leaves you either euphoric, confused or devastated. Even when an appraisal is flattering, there remains an uncomfortable edge to the process. You may wonder why you feel so uneasy and perhaps even embarrassed.

Such a reaction is driven by your knowledge that no one can know you as you do; nor can anyone else understand what you were going through when you wrote X, did Y or said Z.

To further muddy the waters, performance reviews can often be subjective.

The Appraisal Rationale

Meaningful feedback The idea here is that if you know what more experienced others think of your work product and conclude about you personally, you'll want to mold yourself into what is expected, and parenthetically, if you don't want to mold yourself into this image, you'll leave. Either way, the firm benefits. In this instance the performance appraisal is 'meaningful' as a tool for generating conformity and weeding out misfits. Before you raise a cry of outrage, think about this a moment. The goal is not to turn you into a Stepford Wife. You can be a cross dresser outside work and secretly pull the wings off of live flies for all anybody cares. The purpose is to encourage you to become part of a team while at work and not a planet circling around some distant star. On your own, you can be as counter-cultural as you wish, unless, of course you bring unfavorable public attention to yourself and your firm. Do that and you're likely to hear about it on your next performance appraisal if not before.

Improved communication

This is a dubious claim. It can happen, but frequently the opposite occurs. Bad vibes are generated. Yet, if lawyers can be convinced that the system is unbiased and the appraisal process conducted dispassionately, the occasional bad feeling will not become part a rising chorus of smoldering discontent. The component missing here, and it ought to be mentioned, is discretion. Rather than create improved communication, which smacks of corpspeak, the goal of the appraisal process should be to remain confidential -a private summing up between appraiser

and appraised that hopefully clears the air, establishes baselines for future on-the-job conduct, and sets the agenda for a less fractious future.

Maintenance of Standards

Hard to argue with this one. A firm has a right to set standards and it has a right to expect you to adhere to them. The problem comes when these standards are not clear at the start. In an article on the performance appraisal in the March 17, 2003 edition of the Los Angeles Daily Journal, which specializes in local legal news, the writer, Consultant Ida Abbott advises any law firm to first assess the competencies desired and then: "...identify five to 10 specific components to be evaluated for each key performance standard. If one of your standards is 'professionalism,' it must be dissected into specific, observable tasks, skills, attitudes, behaviors and attributes that characterize what a lawyer must do to demonstrate that quality. For example, one component might be 'attention to detail: Is thorough and tenacious in completing complex and multifaceted tasks; work product is neat and free of errors.'"

Facilitates Career Planning

Okay, So The Appraisal Process Is Not Perfect! How Do I Proceed?

Your first battle is to win a fight with yourself. As we have said, you are emotionally predisposed and programmed to protect yourself from bad news, especially if through your actions you caused the bad news to happen. Your mind will deliberately rationalize your mistakes. It will attribute them to events beyond your control. It may even shift blame to others. In short, your brain will do almost anything to avoid confronting the truth of your own error. So, your first job is to confront this aspect of yourself and attempt to override it. Easier said than done, right? Well, awareness is half the battle. When you make a mistake, go ahead and rationalize

it all you want, but allow part of your brain to recognize it for what it was, a blunder. *Start with prevention. Where attorneys get themselves in needless difficulty is not owing up to mistakes.* Most mistakes can be fixed quickly. If you find yourself making the same type of mistake over and over, you need to be on the outlook for this predilection. Then your brain can start building fail-safe mechanisms to guard against similar future mistakes. *Learn the system.* Every firm has its idiosyncrasies.

For instance, in your firm, what is considered a respectable amount of billable hours? Are partners down in the trenches with associates or do they have a tendency to remain aloof? How is work assigned? How is it evaluated? If you get in the flow sufficiently to operate automatically, then the aspects of the system that seem petty or unnecessary will eventually be forgotten. *Get feedback.* But don't do so too often. Don't go running into a supervising partner or senior associate every three or four hours to ask 'How am I doing?' Your insecurity will soon cause irritation and you will look like a whiner and not a 'take charge' individual. Instead, choose quiet times, outside the office if necessary, to ask the assessment of someone senior whom you trust. There are good and bad ways to do this. A bad way might go like this: You: Well, how am I doing? Partner: What do you mean? You: You know, my work performance. Is it okay? In your opinion, am I partner material? What does the bonus situation look like this year? How much do you think I will get?

Here's what you did wrong in this conversation.

First, you put the partner on the spot. You did not give him or her enough time to reflectively respond to your first question before you asked the second question. As for the second question, if you have only been with the firm a few years there may be no way of telling if you are or are not partner material. True, impressions about you have begun to form.

But those impressions can and will change over time. So, the first piece of advice is to avoid asking about partnerships.

Instead, Keep your questions specific to a particular assignment or series of assignments.

This is only reasonable. The long-term decision regarding your competency and partnership potential is the result of many private discussions by others that eventually result in a consensus after a period of years. A better way to inquire about your performance might go like this: You: Do you think I did okay on the Laughingbod Case? I'm only asking because I respect your opinion and your feedback can only be helpful. (Pause)

Partner: I thought you did okay. (Pause) You might edit your stuff a little more carefully before turning it in. You write persuasively, and I've complemented you on your citations, and you're great at meeting deadlines, but, as you know, I've also pointed out some problems from time to time, not serious, you understand, but an indication that your language can use some tightening. I'll work with you on this. It was a problem I also had when I first started working here. I had to learn how the law firm did things. I might add that others have noted how well you handle the client. You're very relaxed and professional and I've heard a lot of favorable comment.

You: Thanks. Now, about the Laughingbod Case. I next plan to.....etc.

Here's What You did right in this conversation.

(1) You asked for advice, which flatters the potential advice giver. (2) You didn't bombard him/her with additional questions. You asked an open-ended question that gave the other person wide latitude in how to respond. (3) You got the advice giver to point out problems; but more important strategically, you got him or her to partner with you in working on the

problem. You moved the advice giver into your corner as a helper/facilitator. (4) Finally, you didn't become a pain in the ass by dwelling on the subject. You moved on, allowing the supervising attorney to do the same.

The above hypothetical conversation may or may not be difficult to replicate.

It suggests an already comfortable relationship between supervising lawyer and associate; but a loose approximation of such a discussion can be conducted with anyone as long as you remember to keep your question simple, open-ended, and focused on a specific task or tasks. Your primary task: Get a supervisory attorney to take some responsibility for your development. This does not mean mentoring in the classic sense of the word. You're merely asking for occasional on-the-job critique from some one who may even busier than you; so you cannot ask for this directly but only hope that it is offered. If it is, this person could eventually evolve into your mentor.

Constantly evaluate yourself.

The first and most important question you must ask is, *Would I want to work with me or for me?* You can decide this by asking such questions as 'Do partners, other associates or people in the support staff avoid me? If so, why? Am I brusque in my professional dealings? Do I complain a lot? Do I pick arguments? Do I fail to say 'Thank you' when somebody goes out of their way or does something nice for me? Am I absent more than I should be? Do I fail to return calls promptly?

Being aware of others is often difficult when we have spent all of our lives focusing on ourselves, with our noses in books and with one test hurdle after another always staring us in the face. But the truth is, in a work environment it is all about interpersonal relationships. You don't have to turn yourself into a back-slapping life of the party, but you need to be moderately skillful socially when

at the office. You may arbitrarily dismiss such social niceties as 'office politics.' But the fact of the matter is that all work life involves human interaction and all of human interaction is political in the sense that to work and live together we must make accommodations and compromises in order to get along.

Periodically, force yourself to evaluate your social interactions.

What aspect of these interactions can you manage better? Which relationships seem to be working best? Why might they be? Do these relationships work solely because you genuinely like these particular individuals? Because you share some interest no matter how banal? Or is it because you take the time to recognize them as unique individuals?

Proactively, always find something about somebody else to compliment, but do so judiciously. Don't just make up something. The compliment has to be sincerely felt or noticed or the other person will likely intuit your deception and react unfavorably to you. Monitor yourself to see if you are walking around looking distracted or unpleasant. If you are, a smile can fix the problem even if you are boiling inside. In an article in JD Jungle, the author (anonymous) comments as follows: "Success at a law firm is about human relationships," says Peter Sloan, a career development partner at Kansas City's Blackwell Sanders. Every time you meet someone new—a partner, another first-year, your secretary—smile. Introduce yourself. Take the time to ask the person a bit about herself. Be the kind of person people like to work with, says Sloan. "You'll lay the groundwork for the relationships you'll need to get ahead." Sloan makes smiling sound like a cynical career move, but it is more than that. It may not help you get ahead, as he assumes; but smiling can reshape your approach to work, to your fellow lawyers and life in general. Like physical exercise, it is necessary for a healthy existence. So look upon smiling as producing multiple benefits, some of which may be that people



will like you better and be more disposed to giving you a break.

Conclusion

You cannot avoid performance appraisals. Even partners get appraisals. You will be evaluated in one form or another all of your working life. Since you cannot avoid the process, it is better that you manage it as best you can. You must first manage your emotions. This is the toughest part. Secondly, you must identify and establish a comfortable feedback relationship with those responsible for judging you. This means getting constant feedback without having to ask for it; which in turn means establishing the kind of open and eager-to-improve attitude that permits criticism, which also has much to do with managing your emotions. Finally, your task is to get supervising attorneys ready to help you improve, which starts with your being open to all suggestions. If you can do most if not all of this, you likely won't be 'blindsided' at appraisal time. So, good luck to you. Take a while to think about what you've just read. Try to dispassionately analyze your current work attitude towards your fellow associates, the partners, the support staff, and your attitude towards yourself. Some of the changes in this article may feel ill-fitting the first few weeks you try them; but none of them -smiling more, saying 'thank you' when appropriate, controlling your negative emotions-will seriously compromise your individuality. Instead, you'll find your work easier and the dreaded performance appraisal easier to digest.