

YOUTH SERVICES POLICY

Title: Polygraph Testing of Employees Next Annual Review Date: 07/19/2017	Type: A. Administrative Sub Type: 1. General Number: A.1.11
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References: Fifth Amendment, US Constitution; La. R.S. 37:2831-2854; U.S. DOJ, PREA Standard 115.372(f)	
STATUS: Approved	
Approved By: <i>Mary L. Livers, Deputy Secretary</i>	Date of Approval: 07/19/2013

I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405.

II. PURPOSE:

The purpose of this policy is to provide investigative officers and YS staff with general knowledge of, and guidance and procedures for the use of polygraph examinations.

III. APPLICABILITY:

All YS employees.

Each Unit Head is responsible for the implementation of polygraph testing and compliance with the procedures outlined herein.

IV. DEFINITIONS:

Polygraph - The polygraph is an instrument that measures and records certain physiological changes in a person undergoing questioning in an effort to determine the likelihood of truth or deception. A polygraph simultaneously measures at least three variables: respiratory activity, galvanic skin resistance or conductivity, and cardiovascular activity.

Unit Head - Deputy Secretary of Youth Services, Assistant Secretary, Undersecretary, Deputy Assistant Secretary, Facility Directors, and Regional Managers.

YS Employee - For the purposes of this policy, a YS employee includes all classified and unclassified Civil Service employees.

V. POLICY:

It is the Deputy Secretary's policy to use polygraph examinations in investigations of incidents involving YS staff and/or youth when conditions indicate that such examination may assist IS.

The polygraph examination is a valuable investigative aide as used in conjunction with, but not as a substitute for, a thorough investigation. The polygraph may be employed, consistent with this policy, to verify, corroborate or refute statements; obtain additional investigative leads; narrow or focus investigations; and assist in the conduct of internal investigations, among other authorized purposes.

Note: A government employer can insist on answers to all questions related to workplace performance. If an employee does not answer, there is the threat of disciplinary action, even termination. Consequently, because of such threat, those answers cannot be used in a criminal proceeding.

VI. Procedures:

A. Requesting Polygraph Examinations

1. In the course of an investigation, the investigator or the Unit Head or his designee may request the Director of IS to authorize a polygraph examination.
2. Polygraph examinations shall be authorized by the Director of IS when consistent with this policy. Situations in which authorization may be requested and approved include, but are not limited to:
 - a. Attempts to verify or reconcile statements of witnesses or other individuals when alternative investigative means have been exhausted; and/or
 - b. Efforts to confirm or refute an allegation(s) that cannot be verified or disproved by other evidence.
3. The polygraph should not be used to verify an allegation without sufficient grounds for suspecting that the victim has given false or misleading statements.

4. Employees who are ordered to take a polygraph examination shall appear for and submit to the examination. Orders to take a polygraph test include written or oral orders directed to the employee to be tested by an IS investigator or anyone above the employee in his chain of command. Failure to follow orders to take the polygraph and cooperate in the investigation may lead to disciplinary action, including termination.

B. Preparing for Polygraph Administration

1. The requesting investigator is responsible for providing the examiner with all pertinent information concerning the case and for reviewing, changing or elaborating on that information as the examiner may deem necessary. This includes, but may not be limited to:
 - a. Information obtained in the investigation that supports and justifies the use of the polygraph;
 - b. Copies of crime/offense reports and investigative reports;
 - c. Evidence available and withheld from the employee;
 - d. Background information on the employee to be examined, to include possible motivation;
 - e. Any statements made by the subject, complainants and witnesses to include alibis; and
 - f. Newspaper articles or other general information concerning the case.
2. Investigators shall not attempt to explain procedures that will be used in the examination but shall advise the employee that these procedures will be explained fully by the examiner. Employees undergoing a polygraph shall be advised of the following:
 - a. That the examination is voluntary; failure to submit to a polygraph examination after receiving formal direction to take the exam from a supervisor may lead to disciplinary action;
 - b. Results of the examination are not acceptable in a court of law unless all parties agree in advance;
 - c. Results of the polygraph examination, taken alone, do not provide substantiation from a criminal charge; and
 - d. The administration of polygraph or truth telling tests to victims who request it is not prohibited.

3. The polygraph examiner shall be solely responsible for authorizing any person's presence inside the examination or observation rooms.

C. Conducting Polygraph Examinations

1. Only fully trained polygraphists or intern polygraphists under their direction are authorized to administer polygraph examinations in accordance with La. R.S. 37:2831-2854.
2. The polygraph examiner shall make such inquiries of the employee's health, medical history and/or use of medications as necessary to determine his/her ability to take the examination. Polygraph examinations shall not be conducted on any person whom the examiner reasonably believes to be physically or emotionally unsuitable for testing. This may include, but is not limited to, persons with heart conditions, women who are pregnant, and individuals taking certain types of medication that may interfere with test results. When in doubt, the examiner may seek guidance from medical or psychological professionals as authorized by this agency, and/or request the examinee to obtain a medical certificate from an appropriate health care provider.
3. An examiner shall not conduct a polygraph examination upon an employee if it is felt for any reason that an unbiased examination cannot be given.
4. Where appropriate, the examiner shall read Miranda rights to the employee and explain the voluntary nature of the test. Where required, the examiner shall request the employee to sign a waiver of Miranda rights.
5. The examiner shall request the subject to sign a consent form for the examination. Refusal to sign the form does not negate the administration of the examination. An examination shall cease immediately if requested by the employee.
6. Prior to the test, the examiner shall explain the polygraph procedure to the examinee and prepare him/her for the examination.
7. The examiner shall be responsible for preparing all questions used in the examination. Prior to the examination, each test question shall be reviewed with the person being tested.

8. The examiner shall independently interpret the chart tracings and render an opinion on findings that includes, but is not limited to, one of the following conclusions:
 - a. No deception Indicated;
 - b. Deception Indicated; or
 - c. No Opinion.
9. The polygraph examiner shall determine if a second polygraph examination is necessary and appropriate.

E. Equipment and Record Keeping

1. The polygraph examiner is responsible for the maintenance, safe-keeping and integrity of the polygraph equipment.
2. The polygraph examiner shall provide such summary activity or statistical reports as may be directed by the Deputy Secretary.
3. Unless otherwise provided in this policy or by state law, the polygraph examiner shall maintain copies of each polygraph report, together with polygraph charts and all allied papers, for a period of five years in a secure location.

F. Examination Rooms

1. Tests and interviews should be conducted in a clean, neat environment free of audible and visual distractions.
2. Certificates, diplomas and the like shall be displayed so as not to be in the sight of the examinee during testing.
3. Examiners will be neat and well-groomed, and will dress in a manner consistent with standards of the professional business community.
 - a. Duty uniforms, badges and other emblems of authority shall not be worn. This does not include departmental identification cards, where required.
 - b. Service weapons may be worn if required but should not be openly displayed.

G. Equipment

Polygraph instruments used shall be of commercial manufacture and shall have no fewer than three functioning recording channels.

H. On-Going Training

Polygraphists shall participate in no less than twenty (20) continuing education credits during a period of two (2) consecutive years of professional recognized in-service training.

Previous Regulation/Policy Number: A.1.11

Previous Effective Date: 06/20/2008

Attachments/References: