

YOUTH SERVICES POLICY

Title: Polygraph Testing of Youth	Type: B. Classification, Sentencing and Service Functions Sub Type: 8. Youth Related Services Number: B.8.17
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References: La. R.S. 37:2831 - 2854; U.S. DOJ PREA Standard 115.371 (f); YS Policy A.1.4 "Investigative Services"	
STATUS: Approved	
Approved By: <i>William A. Sommers, Deputy Secretary</i>	Date of Approval: 07/23/2021

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 Services (IS) staff and YS staff with general knowledge of, and guidance and procedures for, the use of polygraph examinations with youth in the custody of YS.

III. APPLICABILITY:

Deputy Secretary, Assistant Secretary, Chief of Operations, Probation and Parole Program Director, Secure Facilities Director, Regional Directors, Facility Directors, Regional Managers, IS staff, and youth placed in the custody of YS.

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 – For the purposes of this policy, Deputy Secretary, Facility Directors and Regional Managers.

V. POLICY:

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

A youth in the custody of YS, who is an alleged perpetrator, a witness to, or a victim of misconduct, may be subject to a polygraph examination in order to verify or corroborate statements. A "Consent for Polygraph Examination" form (obtained from polygraphist) shall be required to indicate the youth is submitting to the polygraph freely and voluntarily.

A youth can only submit to a polygraph examination if approved by the Deputy Secretary. No youth who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

Persons subject to internal investigations shall not, in any way, retaliate or seek reprisals against youth for cooperating in an investigation and providing requested information.

VI. Procedures:

A. Requesting Polygraph Examinations

1. In the course of an investigation, the investigator or a Unit Head may request a polygraph examination of a youth from the Director of IS.
2. The Director of IS shall request permission for a polygraph examination from the Deputy Secretary. The use of polygraph examination with youth is restricted to investigations of serious acts of employee or youth misconduct. 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 a serious 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 or witnesses have given false or misleading statements.

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 youth;
 - d. Background information on the youth to be examined;
 - e. Any statements made by the youth, 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 potential examinee that these procedures will be explained fully by the polygraph examiner. Youth shall be advised of the following:
 - a. That the examination is voluntary;
 - b. Results of the examination are not acceptable in a court of law unless all parties agree in advance; and
 - c. Results of the polygraph examination, taken alone, do not provide substantiation for a criminal charge.
 - 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 the direction of a trained polygraphist, 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 youth's health, medical history, mental health, 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, youth with heart conditions, youth who are pregnant, and youth 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 a medical certificate from an appropriate health care provider before proceeding.
3. An examiner shall not conduct a polygraph examination of a youth 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 subject and explain the voluntary nature of the test. Where required, the examiner shall request the subject to sign a waiver of Miranda rights.
5. The examiner shall ask the youth to sign a "Consent for Polygraph Examination" form. If the youth agrees to take the test but refuses to sign the form, this fact shall be recorded on the webcam video recorder that may be used by the examiner and/or shall be written on the form by the examiner.
6. An examination shall cease immediately if requested by the subject, without penalty or consequence for the youth.
7. The examiner shall be responsible for preparing all questions used in the examination.
8. Prior to the test, the examiner shall explain the polygraph procedure to the youth and prepare him/her for the examination.
9. Prior to the examination, each test question shall be reviewed with the person being tested.

10. The examiner shall 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.
11. The polygraph examiner shall determine if a second polygraph examination is necessary and appropriate.

D. Equipment and Record Keeping

1. Polygraph instruments used shall be of commercial manufacture and shall have no fewer than three functioning recording channels.
2. The polygraph examiner is responsible for the maintenance, safe-keeping and integrity of the polygraph equipment.
3. The polygraph examiner shall provide such summary activity or statistical reports as may be directed by the Deputy Secretary.
4. 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 (5) years in a secure location.

E. Examination Rooms

1. Tests and interviews shall be conducted in a clean, neat environment, free of audible and visual distractions.
2. Certificates, diplomas, etc. shall not be displayed in the sight of subjects during testing.
3. Examiners shall be neat and well-groomed, and shall 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.

F. 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: B.8.17

Previous Effective Date: 07/19/2019

Attachments/References: