

CIRCLEVILLE MUNICIPAL COURT POLYGRAPH POLICY AND PROCEDURES

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It is important that proper policy and procedure be developed right at the start of the Circleville Municipal Court Polygraph Program. The following will serve as a guide, but this Policy & Procedures Manual will hopefully promote professionalism and a high standard of practice.

Subject: Polygraph Policy and Procedures

I. PURPOSE

To establish guidelines and policy for the use of polygraph in support of the investigative efforts of the Circleville Municipal Court Probation Department, Pickaway County Day Reporting Center, Circleville Police Department, Pickaway County Sheriff's Department, and other jurisdictions as approved by Judge John R. Adkins.

II. POLICY

The polygraph examination is a valuable investigative tool when used in conjunction with, but not as a substitute for, a thorough investigation. The polygraph may be employed, consistent with this policy to: determine maintenance of probation compliance, corroborate or refute statements, assist in investigative leads, narrow or focus criminal investigations, serve to screen candidates for positions with this or other criminal justice agencies, and assist in the conduct of internal police and sheriff investigations.

III. DEFINITIONS

- A. Polygraph - The term literally means "many writings." It refers to the manner in which certain physiological activities are simultaneously recorded. The instrument will record respiratory activity, galvanic skin resistance or conductivity, and cardiovascular activity. These recordings will be recorded while a person undergoes questioning in an effort to

obtain truth or deception.

- B. Polygraph Examination - The examination will include a period referred to as a pre-test, collection of charts, test data analysis, and when appropriate interrogation.

IV. PERSONNEL QUALIFICATIONS OF POLYGRAPH EXAMINERS

A. Personnel assigned as polygraph examiners shall:

1. Successfully complete a basic course of polygraph instruction at a school recognized by the American Polygraph Association.
2. Maintain and demonstrate proficiency as an examiner and satisfy established quality assurance procedures in the conduct of these examinations.
3. Complete not less than sixteen (16) hours of advanced polygraph training presented by the Ohio Polygraph Association or the American Polygraph Association during the previous twelve (12) month period.
4. Conduct polygraph examinations in a manner that reflects the highest standards of ethical conduct as a polygraph examiner, probation officer, and peace officer.

V. ENVIRONMENT

- A. Tests and interviews will be conducted in a clean, neat environment, free of audible and visual distractions.
- B. Examiners will be neat and well groomed. Weapons may be worn, but not openly displayed.
- C. Certificates, diplomas, etc., may be in the examination room, but not displayed in a manner in which they are in the line of sight of the subject during the testing phase of the examination.

VI. PROCEDURES

A. Requesting Polygraph Examinations.

1. Employees of the Circleville Municipal Court Probation Department, Pickaway County Day Reporting Center, Circleville Police Department, and Pickaway County Sheriff's Department may request a polygraph examination from this agency's authorized

polygraph examiner.

2. Situations in which authorization of a polygraph examination may be requested and approved include, but not limited to:
 - a. orders for examination by Judge John R. Adkins.
 - b. requests from the probation department to determine probation compliance.
 - c. requests from the Pickaway County Day Reporting Center to determine probation compliance.
 - d. requests from the Circleville Police Department to assist in investigative efforts.
 - e. requests from the Pickaway County Sheriff's Department to assist in investigative efforts.
 - f. requests from the office of the prosecutor as part of an agreement with the defense attorney for investigative purposes.
 - g. an element of a background investigation of a candidate for employment with the Circleville Municipal Court, Circleville Police Department, Pickaway County Day Reporting Center, or Pickaway County Sheriff's Department.
 - h. requests from other authorized criminal justice agencies.
 - i. efforts to confirm or refute an allegation that cannot be verified or disproved by other evidence.
 - j. efforts to establish probable cause to seek a search warrant.
 - k. part of an administrative or criminal internal investigation of an officer of this agency or another criminal justice agency consistent with this policy.
3. Submission to a polygraph examination must be a voluntary action with the exception of probationers required to take examinations as a condition of probation or employees of this agency formally directed to take an examination as part of an

internal investigation. In all other cases, polygraph examinations shall not be administered without the subjects written approval and waiver of rights.

4. The polygraph should not be used to verify a victim's allegation without sufficient grounds for suspecting that the victim has given false or misleading statements.
5. Requests from another law enforcement agency must be in writing and be approved by this agency's judge and chief polygraph examiner.
6. Not less than three (3) hours will be scheduled for any examination and not more than two appointments per day will routinely be made. Only exceptional circumstances may dictate the consideration of a third examination in a given day.

B. Preparing for Polygraph Administration

1. The requesting officer is responsible for: providing the examiner with all information concerning the case, copies of probation reports, case files, crime and investigative reports, criminal and driving records, statements made by the subject, and any other known pertinent information.
2. Should the subject be unable to speak English, arrangements for an interpreter will be made. Also, should the subject be hearing impaired, a sign language interpreter will be present during the examination.
3. A subject will not be given a polygraph examination immediately after an extensive, accusatory interrogation. Also, if the subject indicates they do not want to be examined, their wishes will be granted.
4. Persons under the age of 13 will not be given an examination. Persons under the age of 18 will not be scheduled for an examination until formal written, and informed consent has been obtained from the individual's parent or legal guardian.

5. Persons will not be scheduled for a polygraph examination at a time when the following exist: fatigued or in ill health, physically injured or in pain, under the influence of alcohol or drugs, and recent physical or emotional trauma.

C. Conducting Polygraph Examinations

1. Only American Polygraph Association polygraph examiners will administer polygraph examinations.
2. During pre-test activities for criminal and probation polygraph examinations, the examiner will make inquiries about the subject's: name, date of birth, address, current employment status, previous employment, family background, education, previous polygraph experiences, military service, arrest information, medical information, medications, drug experiences, alcohol usage, present health, physical problems, psychiatric problems, heart problems, allergies, and probation experiences. This information is used to determine the ability of the examinee to take the polygraph examination and determines anything that might adversely affect the examination. The issue under investigation will also be discussed in detail with the examinee. Information concerning the examinee's knowledge of the issue will be elicited, as well as the claimed source of that knowledge. The interview will not be conducted in an accusatory manner. If major discrepancies are uncovered during the interview, the examiner may attempt to resolve those discrepancies before attempting the examination. Finally, the theory and components of the polygraph will be discussed in a manner understandable to the subject. The examiner prior to the collection of charts will answer questions by the examinee about the examination.
3. The examiner will not conduct a polygraph examination 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. The test will not be voluntary for probationers ordered to take the examination as a condition of probation. The examiner will obtain a signed consent prior to the examination and a signed waiver of rights.
5. The examiner will develop all questions used in the examination. The arresting officer or referring probation officer may suggest areas they are concerned about, but final wording of the questions are at the discretion of the polygraph examiner. Each test question will be reviewed with the person being tested prior to the examination. Only techniques that have been taught to the examiner will be used during the examination. The basic structure of a particular technique will not be altered. Question function and sequence will be in keeping with the technique employed.
6. All charts will be marked with an identifying case or file number, the name of the examinee, the date of the examination, and the signature or initials of the examiner.
7. The polygraph examiner regarding the outcome of the examination will render an opinion. The following conclusions can be rendered: no deception indicated, deception indicated, and inconclusive. These opinions cannot be rendered without at least the collection of two charts. Opinions will be based upon a standardized system of numerical evaluation or other formalized procedure validated through research.

D. Post-Test Activity

1. The examiner will advise the examinee of the outcome of the examination. The results will be presented to the examinee in such a way they will be completely understood.

2. An interrogation shall follow should a deception indicated conclusion be rendered. This phase will not be included if a prior agreement not to include this phase was developed. The examinee will be given an opportunity to explain the recorded reactions indicating deception. No interrogation will occur should no deception indicated be the conclusion.

E. Probation Polygraph Testing

1. Each individual on probation through the Circleville Municipal Court or the Pickaway County Day Reporting Center is subject to random polygraph testing.
2. In the event the probationer fails to take a polygraph examination as stipulated, his/her failure shall be sufficient grounds for revocation of probation.
3. The polygraph stipulation form (Appendix A) will be presented to the probationer at anytime during the probationer's probation term, preferably at the signing of the probationer's probation agreement. The probation officer and the probationer will sign the stipulation form.
4. The waiver of the rights form (Appendix B) will be presented to the probationer at the time of the polygraph examination. The polygraph examiner and the probationer will sign the form.
5. To safeguard against habituation and familiarization between the examiner and the subject, the polygraph examiner should not conduct more than three (3) separate polygraph sessions per year on the same offender unless significant reason exists for more frequent testing.

F. Victim Polygraph Testing

1. At no time will a victim of a crime be tested before the accused perpetrator is tested.

Should the suspect decline taking a polygraph examination, a victim could then elect to take an examination. Victims will not be scheduled for an examination if adequate physical evidence exists to support their allegations.

2. Victim polygraph examinations may be conducted, but only following an investigation in which fact and circumstances are called into question and testimony of the parties involved are conflicting.
3. Polygraph testing of victims may be appropriate when physical or testimonial evidence indicates the victim may not be telling the truth.
4. The victim is advised of their individual rights against self-incrimination.
5. Relevant questions should be asked in such a way that the victim may answer them yes. Research has shown this method provides more conclusive findings and less confusion exists.
6. If a suspect has not been identified and information from independent sources indicates the incident may not have occurred, it would be appropriate to request the victim to undergo a polygraph examination.
7. Control questions should still be used that elicit a "no" response. The controls should revolve around lying and should be separate from the incident.
8. The polygraph examiner will be provided with all documents, reports, or other data he deems necessary. The decision of the polygraph examiner as to the suitability of the case and individual for examination will be final.
9. The examiner should always remember the victim is still a victim, until the facts, circumstances, and charts prove otherwise.

G. Pre-Employment Examinations and Applicant Screening

1. The sole purpose of a pre-employment polygraph interview is to professionally verify information given to gain employment.
2. A pre-employment polygraph examination will only be conducted if the applicant has been offered a job with the Circleville Municipal Court, Pickaway County Day Reporting Center, Pickaway County Sheriff's Department, Circleville Police Department, or other approved criminal justice agency.
3. Questions by polygraph examiners should dwell on issues least likely to be resolved by background investigations. The following are minimum question areas for applicant polygraph screening: illegal drugs/substances (use and sales), employment theft (merchandise and money), criminal acts (undetected crimes, deviant sex, target of investigations), truthfulness (omissions and falsifications), employment history (complete and accurate), bribes (accepting and soliciting), gambling (blackmail activities and gambling debts), subversion (sabotage and access to confidential information), and perjury/false statements (lie under oath and false reports).
4. The polygraph examiner will state his opinion as to the truthfulness of the applicant's responses regarding the above mentioned question areas. The examiner will also report statements and admissions made by the applicant pertaining to the question areas.
5. The polygraph examiner shall review all applicant-screening reports, personal history summaries and any prior polygraph examination reports prepared by this agency before conducting the examination.
6. Authorized members of this agency's personnel authority shall schedule pre-employment polygraph examinations after an offer of employment has been made.

VII. RECORDS AND REPORTS

- A. The polygraph examiner will provide such summary activity or statistical reports as may be directed by Judge John R. Adkins.
- B. The polygraph examiner will keep a running log of all examinations conducted during his course of employment. The examiner will maintain constant calculation of the number of deceptive, non-deceptive, and inconclusive findings. The examiner will also maintain records of confessions obtained for deceptive polygraph examinations.
- C. 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 and indefinitely in capital offenses.
- D. Pre-employment examinations polygraph reports and charts will be maintained in a secure storage location, separate from criminal polygraph files. State law or the human resources policy and procedure shall govern duration of storage and stipulations for release of information.

VIII. EQUIPMENT

- A. Polygraph instruments used shall be of commercial manufactures and shall have no fewer than three (3) functioning recording channels.
- B. Calibration charts and maintenance logs shall be maintained at the instrument's location or with case files. Calibration checks of instruments should be conducted at least two (2) times per month and when possible, if the instrument is moved to a different location.