

Polygraph Exams

415.1 PURPOSE

The primary purpose of a polygraph examination is to determine the truthfulness of the person being examined. If the truthfulness can be determined, the investigator is in a better position to evaluate the evidence and ascertain the next step in the process to conclude his/her investigation.

415.2 PROCEDURE

The following procedures shall be followed:

415.2.1 INVESTIGATOR

- (a) The polygraph examination should be supplemental to, not a substitute for a full field investigation.
- (b) The Polygraph Examiner should be contacted for his/her recommendations as early in the investigation as possible. The examiner should not be used as a last resort.
- (c) The investigator should emphasize to a person who may take an examination that the polygraph is an extremely effective method of establishing the truth. Confidence should be expressed in both the accuracy of the procedure and the impartiality of the examiner.
- (d) If the person exhibits fear of the test procedure, the investigator should assure the person that the examiner will thoroughly explain the procedure prior to any examination.
- (e) No attempt should be made by the investigator to explain the procedure except to express complete confidence in its reliability.
- (f) Investigators should not discuss what questions will be asked during the examination. Only the issues that are being resolved.
- (g) If applicable investigators should explain to business owners that it is against the law for an employer to request or demand that an employee take a polygraph test. It is permissible for the police to ask an employee, however, the results are confidential and an employee's job shall not be affected by acceptance or refusal to take the test. See Act #44, Michigan Public Acts of 1982, otherwise known as the Poly graph Protection Act of 1981. (Copy of Act may be included if needed).
- (h) Threats to use the polygraph to obtain a confession shall not be made. When requesting a person to submit to an examination, it shall be clearly stated that it must be entirely voluntary.

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- (i) The investigator should provide the examiner with as many case facts and documents as possible.
- (j) A Polygraph Request Form shall be filled out completely for each subject scheduled for an exam, including attachment of criminal records and FIO's from the Prosecutor's Office. Always ask the subject if he/she has had a prior polygraph examination and document the response on the Polygraph Request Form. If tested before, please find out the location of the last exam, the name of the examiner, they type of case under examination and the results.
- (k) The investigator shall obtain the subject's version of what happened and attach the corresponding narrative to the case. The subject's version of where he/she was and what he/she was doing at the time of the offense is crucial, especially if there is an alibi story.
- (l) If the Prosecutor's Office has requested a polygraph examination on a defendant, the detective assigned to the case shall contact the defense attorney and inform him/her that the defendant must give his/her side of the story to the detective before any polygraph examination will be administered. Also, if the subject has taken a private polygraph examination and passed it, then a copy of the private polygraph report must be given to the detective and is to be attached to the completed case before any KDPS polygraph examination will be conducted.
 - (a) Subjects are not to be interrogated on the same day as they are interviewed on.
 - (b) If the subject is in custody, it is the detective's responsibility to arrange for transport from the jail.
- (m) It is forbidden for a law enforcement officer to ask or suggest a victim of a CSC offense to take a polygraph exam. Section 21, 2 of Chapter XVI Public Act 454 of 1980 states:
 - (a) A law enforcement officer shall not request or order a victim to submit to a polygraph examination or lie detector test. A law enforcement officer shall not inform a victim of the option of taking a polygraph examination or lie detector test unless the victim inquires concerning such a test or as provided by subsection 3.
 - (b) Subsection 3- A law enforcement officer shall inform the victim when the person accused of a crime specified in subsection 1-b has voluntarily submitted to a polygraph examination or lie detector test and the test indicates that the person may not have committed the crime. This applies to polygraph examinations administered by KDPS. It is not unusual for someone to pass a private examination and fail the police test.

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- (n) Detectives may be present during polygraph examinations on their investigations. The detective can assist with the direction of the post-test interview, as well as providing security for the examiner. Crucial information can be gained that may not be known by the examiner.
- (o) Prior to discussing a possible examination with a juvenile, juvenile parent or guardian, probate judge, the investigator should first consult with the examiner for his/her advice and recommendation.
- (p) Care should be taken that the person to be examined is in good mental and physical condition. He/she should have had food, rest and relief from a lengthy interview/interrogation prior to the examination.
 - (a) Heart condition: A person with a serious heart condition and whose doctor advises against the examination will not be permitted to submit to an examination. Should a person claim to be suffering from a heart condition, the examiner must have a signed letter from his/her doctor stating that this patient may be examined.
 - (b) Pregnancy: A woman known to be pregnant will not be given an examination unless the examiner has received a signed letter from the doctor stating that she may be examined.
- (q) The fact that a person may be suffering from a mental condition, i.e., psychosis or neurosis or a physical disability that may affect the subject's mental state, such as a cold, tuberculosis, etc., or a combination of mental-physical conditions, i.e., alcoholism, drug addiction, ulcers, etc., does not automatically disqualify that person from being successfully examined. Inform the examiner of the subject's health problems and/or mental state prior to the exam.

415.2.2 POLYGRAPH EXAMINER

1. The responsibility for the conduct of; areas to be covered, test questions and all related procedures lies with the polygraph examiner. In addition, he/she has the sole responsibility to determine if any particular examination should take place and the time and location with the approval of CID command.
2. If an examination is given, it should be removed in time and place from the original arrest or interrogation.
3. An examination should never be conducted where, in the examiner's opinion, poor examination atmosphere or surroundings prevail.
4. No examination will be given to any person under the age of 17, without written permission from at least one parent, guardian or probate judge having jurisdiction.

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5. The examiner with concurrence of CID command has the final authority to determine if a juvenile is to be examined.
6. The examiner must inform every examinee of the five conditions outlined in Public Act 295, Sex. 19:
 1. He/She has the right to refuse or accept any examination.
 2. He/She cannot be discharged from employment solely because he/she so refused or accepts.
 3. He/She has the right to halt an examination in progress at any time.
 4. He/She is not required to answer any questions or give any information.
 5. Any information he/she volunteers could be used against him/her, or made available to the party requesting the examination, unless otherwise specified and agreed to in writing.

415.3 POLYGRAPH RESULTS

Polygraph results are NOT to be released to third parties, under penalty of law. This information comes from Public Act 195, Sec. 28 (3).

Any recipient of information, report or results from a polygraph examiner, except for the person tested, shall not provide, disclose or convey such information, report or results to a third party except as may be required by law and the rules promulgated by the Board in accordance with Section 7 of this Act.

The penalty for violating the Act comes from Public Act 295, Sec. 29: Any person violating the provisions of this Act or who falsely states or represents that he/she has been an examiner or intern, shall be guilty of a misdemeanor.

415.4 POLYGRAPH EXAMINERS - PROHIBITED USE

Polygraph examiners employed by the City of Kalamazoo will not be permitted to administer polygraph examinations in a private capacity in instances where the case is or might be under investigation by a law enforcement agency in Kalamazoo County. A law enforcement agency is not limited to only police agencies. It does include prosecutorial agencies such as; Prosecutor's Office and the City Attorney's Office.

If there are any questions regarding an exam, the matter must be brought to the attention of CID command before the exam is conducted.