


Executive Directive



Title: Internal Investigative Division — Polygraph Unit	Executive Directive Number: OSIIFA.010.0021
Related MD Statute/Regulations: Correctional Services Article, §2-103, Annotated Code of Maryland	Supersedes: N/A
Related ACA Standards: N/A	Responsible Authority:  Director, Internal Investigative Division
Related MCCS Standards: N/A	Effective Date: October 9, 2015 Number of Pages: 6



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.01 Purpose.

- A. This directive establishes the Polygraph Unit as part of the Department of Public Safety and Correctional Services (Department) Internal Investigative Division.
- B. This directive establishes policy and procedures related to the use of Department polygraph resources.

.02 Scope.

This directive applies to the Department units requesting the use of Department polygraph services.

.03 Policy.

- A. The Polygraph Unit shall provide polygraph and related investigative services to Department units and other criminal justice agencies consistent with applicable statutes and regulations.
- B. The Polygraph Unit shall perform polygraph examinations and services in accordance with national standards established by the American Polygraph Association (APA), American Society for Testing and Materials (ASTM), International, and Maryland Polygraph Association (MPA).
- C. The Polygraph Unit shall provide polygraph services for:
 - (1) Pre-employment screening;
 - (2) Criminal investigations;
 - (3) Employee misconduct and internal investigations; and
 - (4) Post-Conviction Sex Offender Testing (PCSOT).

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.04 Definitions.

A. In this directive, the following terms have the meanings indicated.

B. Terms Defined.

- (1) “American Polygraph Association (APA)” is a professional organization dedicated to providing a valid and reliable means to verify the truth, establishing standards of ethical practices, techniques, instrumentation, research, and advanced training and continuing educational programs related to the use the polygraph.
- (2) “American Society for Testing and Materials (ASTM), International” is a standards development organization that provides an open forum for the creation of voluntary, consensus standards for industries around the world relying on a multi-level review system in which technical experts are actively engaged in dialogue throughout the development process, largely through an electronic balloting system and bi-annual committee meetings; partnering with the polygraph community to bring together members from private practice, law enforcement and government to establish professional standards for the polygraph.
- (3) “Maryland Polygraph Association (MPA)” is a professional organization comprised of polygraph examiners representing law enforcement, government, and the private sector intending to advance the use of polygraph by promoting the improvement of qualifications for examiners and establishing high ethical conduct, education, and achievement standards.
- (4) Polygraph” means a machine designed to detect and record changes in physiological characteristics, such as a person's pulse and breathing rates, used especially as a lie detector.
- (5) “Psychophysiological Deception Detection (PDD)” means the academic discipline that provides the student, the practitioner, and the researcher with the theoretical and applied psychological, physiological, and psychophysiological fundamentals for a thorough understanding of polygraph examinations and the skills and qualifications for conducting PDD examinations.

.05 Responsibility/Procedures.

A. General Information.

- (1) A polygraph examination is a valuable investigative tool to be used in support of and not in place of thorough and effective investigative techniques used to:
 - (a) Verify statements;
 - (b) Establish the individual credibility;
 - (c) Evaluate the truthfulness of an individual’s statements;
 - (d) Discover evidence; and
 - (e) Aid in determining innocence and guilt.

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- (2) A polygraph examination may only be administered to an individual who:
 - (a) Volunteers to submit to a polygraph examination; or
 - (b) If not volunteering, has been directed to submit to a polygraph examination as part of an internal administrative investigation.
- (3) A polygraph examiner is not to assume custodial responsibility for an individual who is in custody of law enforcement or a state or local correctional or detention facility.

B. Polygraph Examiner Minimum Qualifications.

- (1) A Department polygraph examiner shall comply with the following minimum requirements before being permitted to administer a polygraph examination:
 - (a) Attend and successfully complete a qualifying course of instruction in Psychophysiological Deception Detection presented by a polygraph school accredited by the American Polygraph Association;
 - (b) Be an active member of the American Polygraph Association and the Maryland Polygraph Association;
 - (c) Successfully complete at least 30 hours of mandated polygraph related continuing education every two years beginning at the end of the first full year following being authorized to perform a polygraph examination; and
 - (d) Attend other training required by the Supervisor — Polygraph Unit or professional polygraph organization.
- (2) A polygraph examiner shall comply with standards established by ASTM International, APA, and MPA.

C. Requesting a Polygraph Examination.

- (1) A request for an internal criminal or administrative polygraph examination:
 - (a) Requires authorization by the unit head, or a designee, of the individual requesting the polygraph examination;
 - (b) Shall be coordinated through the Supervisor — Polygraph Unit, or a designee.
- (2) The individual requesting a polygraph examination shall:
 - (a) Make the request in writing;
 - (b) Include a brief synopsis of the details of the case for which the polygraph examination is requested;

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- (c) Include authorization from the individuals' unit head; and
 - (d) Be forwarded to the Polygraph Unit supervisor, or a designee.
- (3) Upon receipt of a request under §.05C(2)(d) of this directive the Polygraph Unit supervisor, or a designee shall assign the case to a polygraph examiner within 2 working days of the date the request is accepted by the Polygraph Unit.
- (4) Within 2 working days of being assigned to a polygraph examination, the assigned polygraph examiner shall contact the individual requesting the polygraph examination to assess the request and, based on the polygraph examiner's expertise, determine if:
- (a) A testable issue exists; and
 - (b) The individual to be tested can be tested.
- (5) If the assigned polygraph examiner determines a testable issue exists and the individual can be tested, the polygraph examiner and the individual making the request shall coordinate scheduling the examination.
- (6) If the polygraph examination is in connection with a criminal or administrative investigation, the individual assigned to the investigation shall:
- (a) Brief the polygraph examiner on all aspects of the investigation before the date scheduled for the polygraph examination.
 - (b) Inform the polygraph examiner of unpublicized information related to the investigation, particularly information expected to be known only to the individual being tested.
 - (c) Provide the polygraph examiner with case information, reports, written statements, related audio or video recordings, laboratory results, and LEBOR or COBOR order, so the polygraph examiner can properly prepare, in advance, for the polygraph examination.
 - (d) Notify the individual being tested of the date, time, and location of the polygraph examination.
 - (e) Coordinate with the individual being tested issues related to facilitating the polygraph examination.
 - (f) Be available for consultation during the scheduled polygraph examination.
- (7) A representative of a non-Department criminal justice agency shall make a request for a polygraph examination in writing to the Supervisor — Polygraph Unit in accordance with applicable provisions under §.05C(2) of this directive.

D. Polygraph Examination.

- (1) A polygraph examiner is responsible for all phases of the polygraph examination.

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- (2) The polygraph examiner is responsible for determining if an individual is mentally and physically suitable to participate in a polygraph examination.
- (3) The polygraph examiner has the authority to decide if a polygraph examination is to be conducted and, if conducted, when the polygraph examination ends.
- (4) When performing a polygraph examination the polygraph examiner shall comply with ASTM International, APA, and MPA standards.
- (5) A polygraph examination and post-examination interview conducted by a polygraph examiner on a correctional officer or law enforcement officer shall comply with requirements of the Correctional Officer's Bill of Rights (COBR) or the Law Enforcement Officer's Bill of Rights (LEOBR) and Department policy.
- (6) Polygraph examination results are confidential and shall only be made available to the authorized representative of the unit requesting the polygraph examination and the individual submitting to the polygraph examination, or a designee.

E. Records.

- (1) Within 5 working days of the date the assigned polygraph examiner completes a polygraph examination and reaches a conclusion based on the polygraph examination, the polygraph examiner shall:
 - (a) Prepare an written Specific Issue Polygraph Report detailing:
 - (i) Facts of the case;
 - (ii) Procedures used to conduct the polygraph examination;
 - (iii) Relevant questions asked of the individual being tested;
 - (iv) Examiner's decision based on the standard physiological response evaluation criteria recognized by the American Polygraph Association;
 - (v) Relevant remarks or admissions made by the individual being tested made during the pre-test and post-test interviews and the results.
 - (b) Submit the completed Specific Issue Polygraph Report to the Supervisor — Polygraph Unit for review.
- (2) Once a Specific Issue Polygraph Report is approved by the Supervisor — Polygraph Unit, or a designee, the assigned polygraph examiner shall forward a copy of the approved Specific Issue Polygraph Report will forwarded to the individual requesting the polygraph examination for placement in the investigative file.

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- (3) Polygraph files shall be maintained in electronic format and contain a complete record memorializing the polygraph examination, including, at a minimum:
 - (a) The polygraph examiner's report;
 - (b) Documentation related to the case including, but not limited to:
 - (i) Authorization of the polygraph examination;
 - (ii) Notifications;
 - (iii) Waivers and advisements;
 - (iv) Written statements taken from the individual being tested;
 - (v) Investigative report;
 - (vi) Polygraph charts and score sheets;
 - (vii) Audio or video recordings of the polygraph examination; and
 - (viii) Other information related to the evaluation of the polygraph examination.
- (4) The polygraph examiner shall upload all electronic polygraph files to the Polygraph Unit's secured storage location.
- (5) Electronic polygraph files stored by the Polygraph Unit shall be retained and destroyed in accordance with an approved Polygraph Unit document retention schedule.

.06 Attachments/Links.

There are no attachments or links to this directive.

.07 History.

This directive supersedes provisions of any prior existing Department or unit communication with which it may be in conflict.

.08 Correctional Facility Distribution Code.

A
S Individuals conducting internal criminal or administrative investigations