

Bowie City Police Department - General Orders



TITLE: POLYGRAPH EXAMINATION PROCEDURES		NUMBER: 420
EFFECTIVE DATE: 2/3/17	REVIEW DATE:	
X NEW _ AMENDS _ RESCINDS	DATE:	

AUTHORITY Chief John K. Nesky	ACCREDITATIONS STANDARDS	TOTAL PAGES 8
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I. PURPOSE

The purpose of this General Order is to clarify and regulate the procedures for the Bowie Police Department's polygraph use and to define the responsibilities of the Polygraph Examiner.

I. POLICY

It shall be the policy of the Bowie Police Department to have a polygraph instrument available to members of the Department to aid in evaluating the credibility of witnesses during the course of an investigation. It shall not be relied upon as a substitute for other approved criminal investigations, techniques, and procedures but should be considered an investigative tool.

Polygraph examinations may be requested by an Officer or investigator with supervisory approval for suspects, complainants, and witnesses in either misdemeanor or felony cases. In addition, the polygraph shall be used by the Department for pre-employment screening.

III. REQUIRED ACTION

A. Arrangements and Procedures

1. Appointments

Officers requesting a polygraph examination shall contact the Department's designated Polygraph Examiner to schedule an appointment and to discuss the details and issues of the case. The Polygraph Examiner should be contacted at the discretion of the on-duty supervisor or the Criminal Investigations Division supervisor.

2. Explanation of Methodology

Officers shall not attempt to explain to a prospective examinee the scientific application of the polygraph examination or the methodology utilized by the Examiner.

3. Time

A polygraph examination should be conducted approximately eight to ten hours after the commission of a crime or the conduct of an interview in order to avoid an examination of persons who are emotionally upset, mentally or physically fatigued, or experiencing any other similar condition that would result in an inconclusive examination. An examination shall be conducted only when the Polygraph Examiner determines in her/his reasonable discretion that it would be an appropriate time to do so.

4. Duration

Officers requesting an examination shall be prepared to allow approximately two hours for the examination, though in some cases a longer period may be required.

5. Information

Officers requesting an examination shall provide all available information and reports to the Polygraph Examiner, so as to enable the Examiner to construct adequate objectives and comprehensive questions. This shall include but is not limited to the following:

- a. A copy of the offense/complaint report.
- b. The reason for which the person is to be examined.
- c. Any factual information concerning the individual to be tested.
- d. A list of specific questions relevant to the investigation that Officers want the examinee to answer.
- e. A copy of any statements given by the individual to be tested.
- f. All evidence obtained in the case and the result of laboratory examinations.
- g. Any other specific information which is peculiar to the incident under investigation, and which could only be known to those directly involved in the incident.

6. Request for Examinee Submission

Officers requesting an examination shall inform the prospective examinee of its purpose, and request that person agree to the examination prior to scheduling a polygraph with the Polygraph Examiner.

7. Restriction of Medication

Officers shall not advise a prospective examinee not to take a prescribed or lawful non-prescription medication or otherwise restrict a prospective examinee from taking such medication prior to the administration of the polygraph examination.

8. Officer Availability

During the course of the polygraph examination, the investigating Officer shall ensure he or she is available to respond to the examination room if necessary.

IV. EXAMINEE RIGHTS AND PRIVILEGES

A. Consent

Officers shall not require a person to submit to a polygraph examination unless he or she has received prior knowing and voluntary consent from that person.

B. Refusals

1. Officers shall not give any indication to a prospective examinee that a refusal to submit to the polygraph examination will be construed as a tacit admission of guilt.
2. If prospective examinee is unwilling to submit to a polygraph examination but, in the opinion of the investigating Officer, a comprehensive explanation of the polygraph process would alleviate any reservations on the part of the prospective examinee and thereby lead to a valid consent, the necessary arrangements for such an explanation shall be made through the Polygraph Examiner.

C. Confidentiality

Information obtained from an examinee during the course of a polygraph examination shall not be disseminated to the general public. The Polygraph Examiner shall restrict the results of the polygraph examination to departmental personnel with a need to know, and shall apply only that information which pertains to the particular case or issue in question. However, in the event that an examinee confesses to other unrelated crimes or violations, the Polygraph Examiner shall have a duty to forward the information to the appropriate Officers.

D. Fatigue

Officers should not require prospective examinees to take the polygraph examination if they are physically or mentally fatigued.

V. EXAMINER RESPONSIBILITIES

A. Consent/Rights Form

1. The Polygraph Examiner shall read and explain the “Consent and Release” form to the examinee and have the examinee sign the form prior to the polygraph examination. In criminal cases and other cases as necessary, the Polygraph Examiner shall read and explain the “Explanation of Rights” and have the examinee sign the form. In addition, the Polygraph Examiner or the investigating Officer shall sign the form(s) as witness(es).
2. In cases of juveniles, one parent or guardian must sign the “Consent and Release” form unless a court order is obtained from a judge with appropriate jurisdiction.

B. Explanation / Instructions

1. Prior to the administration of the examination, the Polygraph Examiner shall provide the examinee with an explanation of the nature of the polygraph examination, and give complete instructions regarding the required conduct of the examinee during the examination.
2. Prior to the examination (Pre-Employment and Criminal Investigations), the Polygraph Examiner shall review with the examinee the questions that will be asked during the examination.

3. The polygraph will be the only instrument used in determining deception during the pre-employment process.

C. Incriminating Statements

In criminal investigations, the Polygraph Examiner shall notify the investigating Officer immediately of any incriminating statements made by the examinee during the course of the polygraph examination. At that time, the examinee may be turned over to the investigating Officer for the purposes of taking a written statement.

D. Relevancy

The Polygraph Examiner shall be concerned only with the detection of deception related to those issues that are relevant to the investigation, and shall not attempt a psychiatric analysis of the examinee.

E. Interpretation / Conclusions

Polygraph charts shall be interpreted by the Polygraph Examiner conducting the examination, and if needed, may be reviewed by another certified Polygraph Examiner.

F. Personal Data Sheet

The Polygraph Examiner shall complete a "Personal Data Sheet" on every examinee with the exception of pre-employment examinations. This form shall include the name assignment of the person requesting the examination, the type of case being investigated, special instructions, the result of the examination, and any statements of admission by the examinee.

G. Polygraph Results

1. The Polygraph Examiner shall advise the investigating Officer of the results of the examination. The results will be documented on a Polygraph Report and will be forwarded to the investigating Officer.
2. Polygraph charts shall not be made part of the investigator's file.
3. The dissemination of polygraph charts and the Polygraph Report shall be in strict conformity with the restrictions established in Section II of this General Order.

H. Files

1. The Polygraph Examiner shall file polygraph charts and at least one copy of the Examiner's written Polygraph Report in a secured storage area of the CIS office. All forms, charts, videos, and any other administrative work on an examinee shall be stored for a minimum of five years.
2. In addition, the Polygraph Examiner shall be responsible for completing all other necessary administrative functions. This shall include, but is not limited to, the maintenance of all logs and files.

I. Maintenance

The Polygraph Examiner shall insure that the polygraph instrument is calibrated in accordance with the manufacturer's specifications on a monthly basis.

VI. EXAMINER TRAINING

1. Only certified Polygraph Examiners are permitted to operate the instrument and conduct polygraph examinations .
2. Polygraph Examiners shall be trained/certified through an accredited polygraph institute and shall maintain such certification.

Explanation of Rights

Date:

Time:

Place:

CCN:

Before we ask you any questions, you must understand your rights.

You have the right to remain silent.

Anything you say can be used against you in court.

You have the right to talk to a lawyer for advice before we ask you any questions and to have her/him with you during questioning.

If you can not afford a lawyer, one will be appointed for you before any questioning if you wish.

If you decide to answer questions now without a lawyer present you will still have the right to stop answering questions at any time and request the assistance of a lawyer.

Waiver of Rights

I have had this statement of my rights read to me and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand that this polygraph may lead to the development of information relevant to a criminal investigation against me or someone else. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

(Signature of Examinee)

(Witness)

(Witness)

Consent

I, _____, having been informed by
(Full Name of Examinee)

_____ that this polygraph examination is being conducted
(Examiner)

in connection with _____
do hereby, freely and voluntarily, without duress, coercion, promises of reward or immunity,
submit to a polygraph examination at _____ on this _____ day of
(Time)

_____, 20____.
(Month)

I understand that the questions to be asked will be reviewed with me prior to the examination.

I agree that an audio and video recording of the examination will be made.

(Signature of Examinee)

(Witness)

(Date / Time)

Juvenile Release

I hereby voluntarily give consent that my _____,
(Daughter, Son, Ward)

_____ be given a polygraph examination,
(Full Name)

I understand that operation of this device involves the use of electronic apparatus for the recording of physiological and vocal responses. I have had the nature of this examination explained to me, I authorize the necessary attachments to be placed on my

_____, and I authorize the Bowie Police Department to make a video or
audio recording(Daughter, Son, Ward)

of the examination and to listen to it while it is being conducted . I may revoke my consent at any time before or during the examination by communicating such revocation of consent to _____, who shall be available to me for that purpose during the examination.

(Signature of Parent / Legal Guardian)

(Witness)

(Date / Time)