




# Clayton County Police Department

# PROCEDURES

Subject <b>POLYGRAPH EXAMINATIONS</b>		Procedure # <b>E2</b>	
Authorizing Signature 	Effective <b>06-13-2022</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Rescinds	Total Pages <b>11</b>

## I. PURPOSE

The purpose of this policy is to establish guidelines for the administration of polygraph examinations in conjunction with investigations (e.g., administrative, criminal, background investigation for employment applicants, etc.) that are conducted by the Clayton County Police Department.

## II. POLICY

It is the policy of this Department to provide polygraph examination services to other government departments and/or agencies requesting such services with the approval of the Chief of Police, or designee. Requests from other government departments and agencies for polygraph examinations will be honored, but with the needs of the Department taking priority.

Polygraph is a scientific instrument used to conduct specific issue and pre-employment examinations. The examinations are used in connection with applicant testing, internal affairs investigations, transfer and/or retention of personnel to and from sensitive areas (e.g., narcotics and other drug-sensitive assignment positions, etc.), asset forfeiture, criminal investigations, and to provide support to other government departments and/or agencies. The polygraph examination is a valuable investigative aid as used in conjunction with, but not as a substitute for, a thorough investigation. Examinations will be conducted to determine the veracity of the person tested regarding the issue(s) being examined, and to arrive at the truth concerning that/those issue(s), when possible.

### **III. DEFINITIONS**

Periodic Polygraph Examination: A screening-type examination administered to personnel assigned to sensitive areas of the Department (e.g., narcotics and other drug-sensitive assignment positions, etc.).

Pre-employment Polygraph Examination: A screening-type examination utilized during the application process, but following a conditional job offer, and addresses multiple issues simultaneously.

Specific-Issue Polygraph Examination: An examination administered during criminal and internal investigations which only addresses one specific issue or incident at a time.

### **IV. PERSONNEL QUALIFICATIONS**

- A. Many functions within the Department require pre and post assignment specialized training. The specialized training is intended to help the employee obtain the knowledge, skill and ability to adequately perform the assignment.
- B. Polygraph Examiners must meet the following criteria before assignment with the Polygraph Unit:
  - 1. Successfully complete a basic course of polygraph instruction at a polygraph school or examiner training program accredited by the American Polygraph Association (APA).
  - 2. Annually obtain a minimum of twenty (20) hours of continuing education relating to polygraph testing, presented by a state or national level polygraph organization, or a polygraph school and/or program accredited by the APA.
  - 3. Conduct official duties in a manner that exhibits the highest standard of ethical conduct as a polygraph examiner and peace officer.

### **V. EQUIPMENT**

- A. Polygraph instruments utilized will be of commercial manufacture, and will have at least four (4) properly functioning recording channels.

At a minimum, the instrument will record galvanic skin resistance or conductance; cardiovascular activity and motion; and two (2) channels of respiratory activity.

- B. Procedures outlined by the instrument manufacturer (Axciton Systems, Inc.) will be followed to ensure the proper function and calibration of the instrument.

## VI. ENVIRONMENT

- A. Polygraph examinations will be conducted in a clean, neat environment, and should be reasonably free from distractions.
- B. Polygraph Examiners will be well-groomed and professional in appearance. Polygraph Examiners will wear appropriate business attire within the guidelines of the Department's dress code.
- C. Uniforms, emblems of authority (e.g., police identification, police badge, etc.), and weapons, if worn, will not be openly-displayed.
- D. Polygraph Examination Rooms

The Polygraph Examination Rooms (#'s 124 and 126) are located on the second floor of Headquarters; the rooms shall contain a minimal amount of furniture (usually two office chairs, examination chair, desk, and file cabinet). The rooms are equipped with the polygraph instrument and components, computer and accessories, and a camera system to record sound/video for interviews and interrogations, and examinations.

- 1. Additional equipment (e.g., laptop computer, camera, digital recorders, etc.), chairs and/or other items may be brought into the polygraph examination room as needed.
  - 2. Departmental forms and other items (e.g., pens, paper, etc.) needed for an interview may be brought into the polygraph examination room.
  - 3. The Polygraph Examiner is responsible for the removal of any added furnishings, equipment or other items at the conclusion of an interview.
- E. Only authorized personnel for work related reasons shall be allowed inside the polygraph examination rooms.
- F. The rooms should be considered a safe and secure environment; it is the Polygraph Examiner's responsibility to visually and physically check the room for weapons, contraband, evidence and any item that a person might be able to use to harm themselves or anyone else, prior to placing an individual inside and also at the conclusion of the interview.
- G. The rooms may be used for both custodial interrogations of detainees and non-custodial interviews with witnesses, victims, suspects, applicants and other individuals; when used, no individuals, other than the Polygraph Examiner and the Examinee will be present inside the room. Exceptions to this rule may occur, when an interpreter is used or when other extenuating circumstances exist.

H. When a polygraph examination is administered, the “Interview in Progress” sign will be activated to prevent any interruptions. When activated, the letters on the sign are illuminated in red, alerting others such room is in use. The signs are fixed to the ceiling in front of each polygraph examination room.

I. Cameras and/or Audio Recording System/Devices

Examinations, interviews and interrogations inside a polygraph examination room should be recorded via cameras and/or audio recording system/device.

1. Only employees who have been properly trained will operate or use the cameras and/or audio recording system/devices for a polygraph examination room.
2. The camera and/or audio recording system/device for a polygraph examination room will be checked before and after use to ensure the equipment is in proper working order. Any malfunction of the equipment that occurs during an interview must be documented in the Polygraph Examiner’s report and/or lead or assisting detective’s report.
3. Any failure of cameras and/or audio recording system/devices for a polygraph examination room shall be immediately reported to a supervisor assigned to the Criminal Investigation Division (CID).

## **VII. PROCEDURES**

A. Screening

Prior to any polygraph examination being scheduled, each specific-issue or pre-employment case shall be screened to ensure it adheres to the following:

1. Polygraph examinations of sexual assault victims shall be in accordance with OCGA § 17-5-73.
2. Persons below the age of seventeen (17) years will not be subjected to a polygraph examination until consent has been obtained from the juvenile’s parent or legal guardian, or a court order has been obtained from a court of competent jurisdiction.

Persons below the age of thirteen (13) years will not be subjected to a polygraph examination.

3. If the intended Examinee is under the care of a doctor, written permission must be obtained from the doctor prior to the polygraph examination.
4. Pregnant women will not be given a polygraph examination.

5. In the event a citizen initiates an *Incident Report* for an alleged crime, and there is no evidence to contradict the allegations in the report, the suspect will be asked to submit to a polygraph examination before the victim.
6. Political officials will not be asked to submit to a polygraph examination without first informing the Chief of Police, or designee.
7. Polygraph Examinations of Employees

Employees of this Department will not be subjected to a polygraph examination, criminal or administrative, unless authorized by the Chief of Police, or designee.

a. Administrative Polygraph Examinations

- 1) In the event an employee of this Department is ordered by the Chief of Police, or designee, to submit to an administrative polygraph examination, the employee will submit and answer questions relating specifically and narrowly to the performance of their duties and/or to corroborate testimony he/she provided during an internal investigation.
- 2) During an administrative polygraph examination, the employee's answers cannot be used against them in any related subsequent criminal prosecution.
- 3) Prior to the administrative polygraph examination, the employee must have previously been informed of the allegation(s) against him/her and the name of the accuser/complainant.
- 4) An employee's refusal to submit to an ordered administrative polygraph examination will be considered insubordination and such employee will be subject to disciplinary action, up to and including termination.

b. Criminal Polygraph Examinations

In the event an employee of this Department becomes a suspect in a criminal investigation, and the Chief of Police, or designee, has authorized that the employee be asked to submit to a criminal polygraph examination, the employee will be treated as any other individual.

8. In the event an allegation of misconduct is made involving an employee of this Department, and is unsupported by evidence, then the person making the accusation may be asked to submit to a polygraph examination before the employee.

## 9. Polygraph Examinations of Detainees, Suspects, or Potential Suspects

The Polygraph Examiner will take into consideration security concerns when conducting a polygraph examination with all individuals, with special emphasis on investigations involving detainees, suspects, or persons who could possibly evolve into a suspect.

For information regarding polygraph examinations of detainees, refer to standard operation procedure: *B20: Interview Rooms*.

### B. Scheduling

The scheduling of polygraph examinations shall adhere to the following guidelines:

1. All polygraph examinations are by appointment only and must be scheduled through an officer assigned to the Department's Polygraph Unit. If a Polygraph Examiner of this Department is unavailable, a private or public polygraph examiner, approved by the Department, shall be used.
2. Scheduling priorities will be based on the specific issue, seriousness of the offense, suspects, or as directed by Chief of Police, or designee.
3. Absent exigent circumstances, no more than two (2) complete specific-issue polygraph examinations will be conducted in a single work day by the same Polygraph Examiner.
4. Polygraph examinations will not be scheduled until adequate information has been developed to serve as the basis for the examination. Examinations will not be scheduled in lieu of, or as a substitute for, other investigative procedures.
5. Not less than three (3) hours will be scheduled for any specific-issue polygraph examination and not less than two (2) hours for any pre-employment or applicant polygraph examination. Examinations will adhere to APA standards.
6. In the event a polygraph examination must be cancelled, the requesting authority shall notify the Polygraph Examiner as soon as possible.
7. The Polygraph Examiner will promptly notify his/her supervisor when they have any concerns about a polygraph examination that is scheduled and/or attempting to be scheduled. The Polygraph Examiner will provide his/her supervisor with the reason(s) (e.g., inadequate information, incomplete investigation, safety, date, time, etc.) for such concern.
  - a. If the supervisor does not concur with the Polygraph Examiner, the supervisor will meet with the Polygraph Examiner to address his/her concern(s).

- b. If the supervisor concurs with the Polygraph Examiner, the following shall occur:
  - 1) The Polygraph Examiner and/or his/her supervisor will immediately notify any and all affected personnel, departments, agencies; and/or
  - 2) The supervisor will immediately forward this information through the chain of command, as and when required.
- 8. The Chief of Police, or designee, is the final authority for determining whether or not a polygraph examination will be administered by a Polygraph Examiner.

### C. Preparation

Preparation is completed by the Polygraph Examiner and the requesting authority prior to the arrival of the Examinee. The person and/or authority requesting a polygraph examination shall remain immediately available during the entire polygraph examination process.

- 1. Complete details of the specific issue, or applicant's background to be examined, should be provided to the Polygraph Examiner by the requesting authority. Such details shall include, but are not limited to, reports, forms, questionnaires, investigative notes, background packets, etc. Information pertinent to the specific issue or applicant being examined shall not be withheld from the Polygraph Examiner.
  - a. Regarding specific-issue polygraph examinations, the requesting authority shall ensure that the Examinee has been thoroughly questioned concerning the offense(s) and that all available and proper investigative steps have been pursued.
  - b. If the Examinee has previously been administered a polygraph examination on the same offense(s), the requesting authority will make the results available to the current Polygraph Examiner.
- 2. The Polygraph Examiner will review all available information pertinent to the specific issue or applicant being examined. A conference between the requesting authority and the Polygraph Examiner may be required. When a conference is required and requested by the Polygraph Examiner, the requesting authority will make him/herself available.

Polygraph examinations targeting reported criminal activity will generally address only one (1) crime and/or incident. Multiple series examinations will be used as appropriate and may be covered during any single polygraph examination. The Polygraph Examiner will determine what

issues should be covered, the questions to be asked and the wording of such questions, after consulting with the requesting authority.

3. It is the responsibility of the Polygraph Examiner to prepare all necessary waivers, consent form(s), and the stipulation form(s).

#### D. Pre-Test Activity

Pre-test Activity is the contact between the Polygraph Examiner and the Examinee prior to administering the polygraph examination.

1. It shall be explained to the Examinee, when applicable, that all polygraph examinations conducted in connection with criminal investigations will be court-stipulated, unless specifically instructed otherwise by an appropriate prosecutor with competent authority.
2. The Polygraph Examiner will explain the reasons for all required waiver, stipulation form(s), and consent form(s). It is the responsibility of the Polygraph Examiner to ensure that the Examinee's signature is on all necessary waivers, stipulation form(s), and consent form(s).

In the event the Examinee is a juvenile, the Polygraph Examiner will ensure that the signature of the juvenile's parent or legal guardian is on all required waivers, stipulation form(s), and consent form(s).

3. Once introduced to the examination room, the Examinee will be advised of all the procedures that will be followed during the polygraph examination.
  - a. The polygraph instrument, its attachments and functions will be explained in a manner that the Examinee can understand.
  - b. The theory of polygraph will be discussed in a manner the Examinee can understand. The Examinee will be asked if they have questions concerning the technique and/or process. The questions will be answered in terms they can understand.
4. Personal data identifying the Examinee will be obtained and recorded in writing.
5. The Examinee will be asked about recent or on-going health problems and about his/her general physical or emotional condition at the time of the polygraph examination.

The Polygraph Examiner will not proceed with the polygraph examination if they have reason to believe the process could be detrimental to the physical or emotional well-being of the Examinee without a signed Medical Release Form.



6. It is the responsibility of the Polygraph Examiner to make the final decision as to the Examinee's suitability for polygraph testing.
7. For specific-issue polygraph examinations, the specific issue being examined will be discussed in detail with the Examinee. During this interview, the exact wording of each question to be asked will correlate with information provided by the Examinee. This interview will not be conducted in an adversarial atmosphere. Questions that were not discussed or reviewed prior to the polygraph examination will not be asked. Questioning will be limited to the specific area(s) and/or topic(s) that are the focus of the inquiry.
8. In pre-employment or applicant polygraph examinations, only areas of the applicant's background related to their suitability for employment with the Clayton County Police Department will be covered during the interview/polygraph examination. These areas may include, but are not limited to:
  - a. Falsification of application;
  - b. Prior work history;
  - c. Past and/or current health or medical conditions;
  - d. Past and/or current alcohol usage;
  - e. Past and/or current illegal drug usage or sales;
  - f. Criminal convictions;
  - g. Prior history of theft;
  - h. Past and/or current involvement in criminal activity;
  - i. Future intentions of subversive or espionage activities; and
  - j. Any other area that might be related to their suitability for employment with the Department.
9. It is the responsibility of the Polygraph Examiner to ensure that the Examinee's signature is on the question sheet, indicating that each question to be asked during the chart phase of the polygraph examination has been reviewed, and they consent to each question to be asked.
10. Questions to be asked during testing will be reviewed in the proper sequence for the technique being utilized.

#### E. In-Test Activity

In-Test Activity is defined as that portion of the polygraph examination process that involves the actual use of the polygraph instrument.

1. Only validated, standardized techniques will be used during the polygraph examination. The basic structure of the technique will not be altered. Question function and sequence will be in keeping with the technique employed.
2. All charts will be marked to identify the name of the Examinee, the date and time, and the name of the Polygraph Examiner.
3. The amount of pressure in pressurized systems will be recorded at the beginning and end of each chart. If electronically-enhanced equipment is used, the amplification of "sensitivity" being used will be recorded at the beginning and end of each chart.
4. Question pacing and spacing will be in keeping with the standards of the technique being used.
5. Changes and/or adjustments to tracings during the test phase of the polygraph examination will be marked or recorded on the chart using standardized chart marking procedures.
6. An opinion concerning the veracity of the Examinee (deception or no deception) will be made solely on chart analysis and will be based on no less than three (3) presentations of the questions used to form that opinion, unless a validated technique dictates otherwise.
7. All polygraph examination procedures will be video and audio recorded.

#### F. Post-Test Activity

Post-Test Activity are the events that follow the actual use of the polygraph instrument.

1. The Examinee will be advised of the Polygraph Examiner's opinion resulting from the analysis of the polygraph charts obtained.
2. If the resulting opinion is one of "deception indicated" or "no opinion due to inconclusive data," the Examinee will be given the opportunity to explain the recorded reactions.

## **VIII. DOCUMENTATION & RECORDS**

A written report will be prepared for each polygraph examination conducted by a Polygraph Examiner of this Department.

### **A. Specific-Issue Polygraph Examinations**

Upon completion, a copy of the Polygraph Report will be transmitted to the requesting authority.

### **B. Pre-Employment Polygraph Examinations**

Upon completion, the original report will be transmitted to the requesting authority. Typically, no other documentation (e.g., consent form, questionnaire, Polygraph Examiner's notes, etc.) will be given to the requesting authority.

### **C. Records Maintenance & Review for Quality Control**

1. It is the responsibility of the Polygraph Examiner to maintain copies of all written reports, related documentation and recordings.
2. All supporting documentation gathered during the course of a polygraph examination shall be maintained for a minimum period of three (3) years (or as otherwise required by law).
3. Polygraph charts and other related documents and materials may be disseminated to other Polygraph Examiners for the purpose of consultation and/or quality control review.
4. After Examinee identification has been redacted, polygraph charts and any related documents and materials may be disseminated to American Polygraph Association (APA) accredited schools or other research facilities for the purpose of training and/or furthering research and development.

## **IX. CANCELLATION**

This procedure amends and supersedes the following standard operating procedure: *E2: Polygraph Procedures*, dated May 14, 2015.