


# FORT SMITH POLICE DEPARTMENT

## POLICIES AND PROCEDURES

SUBJECT	Polygraph Instrument		
NUMBER	1106.05	EFFECTIVE DATE	November 15, 2001
SCHEDULED REVIEW DATE	Annually beginning November 1	ISSUE DATE	November 15, 2001
DATE REVIEWED	March 20, 2025	REVISION DATE	March 20, 2025
APPROVED BY		CALEA STANDARDS	LE 32.2.4; LE 42.2.6

### I. Purpose

- A. The purpose of this policy is to establish policies and procedures for the investigative use of the polygraph instrument.

### II. Policy

- A. The Fort Smith Police Department recognizes the value of properly administered polygraph examinations in a wide variety of circumstances. It shall be the policy of the Fort Smith Police Department to maintain a polygraph function, staffed by qualified and licensed polygraph examiners. Polygraph examinations will be administered in accordance with all standard practices, and in compliance with all applicable laws and statutes governing its usage.
- B. It shall be the policy of the Fort Smith Police Department to administer polygraph examinations to applicants for employment as a police officer for the Fort Smith Police Department, provided that the applicant has been tendered a conditional offer of employment.

### III. Procedures [LE 42.2.6]

- A. The objective of the polygraph examination is to ascertain if a person's reactions, as recorded, indicate truthfulness, anticipating that any of the following be accomplished:
1. Verify a statement or testimony.
  2. Obtain additional investigative leads of an offense, location of evidence, or whereabouts of a wanted missing person.
  3. Obtain facts when a test indicates the person has been deceptive.

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B. Techniques used during the examination by an examiner are based upon the theory that a conscious mental effort to deceive, on the part of a normal person, causes a physical change that may be recorded by the polygraph instrument. The instrument produces a chart record of the physiological changes caused by a person's emotional response during the test. By examining the chart record, an examiner may form an opinion that a person was not emotionally disturbed by the questions during the test and was therefore truthful. An examiner may also form an opinion that a person was deceptive if responses are present that are caused by the relevant questions that were asked. Accurate interpretation of the test charts depends upon the training, experience, professional education, and professional capabilities and skills of the examiner.

C. Basic Uses of the Polygraph

1. ***The polygraph is an excellent aid in law enforcement investigations, however it must never be considered as a substitute or a short cut to an investigation.***
2. The final result of a polygraph investigation will be based, in great measure, upon the thoroughness of the investigation ***prior*** to having a subject take the examination.
3. In criminal investigations, polygraph examinations may be conducted upon suspects, victims, or witnesses.

D. Legal Status

1. The polygraph examination is simply an aide to a criminal investigation. If a person agrees to the examination, after being advised of his legal rights, his legal rights are not violated. A legally obtained statement, admission or confession may be entered into evidence, and the use of the polygraph does not alter this fact.
2. If the polygraph examiner received an oral statement, and if that statement was obtained in compliance with the Arkansas Code of Criminal Procedure, the examiner may testify about that statement in court.
3. The polygraph examiner should not be encouraged to take a written statement, as the officer assigned to the investigation should accomplish this.

E. Polygraph Examiner

1. Qualifications and procedures for the licensing of polygraph examiners in the state of Arkansas are set forth in the Polygraph Examiner's Act, A.C.A. 17-39-102. ***Only fully licensed polygraph examiners, or intern polygraph examiners under the direct supervision of a fully licensed examiner are authorized to conduct polygraph examinations for the Fort Smith Police Department.***

**IV. Responsibilities of Submitting Officer [LE 42.2.6]**

- A. To a large extent, the success of a polygraph examination depends on the proper and thorough investigation by the submitting officer. If the case has been investigated properly, the polygraph examination can contribute to the successful conclusion of the investigation. The submitting officer must obtain prior approval for seeking the polygraph.
- B. The submitting officer must remember the polygraph is only an aide to the investigation, and that a thorough and complete investigation must be conducted aimed at securing competent evidence to prove or disprove a criminal offense, rather than upon the possibility of self-disclosure induced by a polygraph examination.

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C. Polygraph examinations will be approved only when the following conditions have been met:

1. The investigation, by other means, has been as thorough as circumstances permit; the subject has been interviewed; and consistent with the circumstances of the case, development of additional information by means of a polygraph examination is essential for further conduct of the investigation.
2. There is reasonable cause to believe the examinee has knowledge of, or was involved in, the matter under investigation.
3. The submitting officer should be able to brief the examiner on specific details of the investigation. General facts, theories and suspicions are not enough. The submitting officer must have detailed, verified facts, such as:
  - a. Specific articles or exact amounts of money stolen
  - b. The exact time (if known) the offense occurred.
  - c. Peculiar aspects of the offense or any strange or obscene acts committed at the scene.
  - d. Known facts about a suspect's actions or movements.
  - e. Facts indicating a connection between the suspects, victims and witnesses, especially when they deny any connection.
  - f. Exact type of firearm, weapon, or tool used.
  - g. Results of laboratory tests.
  - h. Background information pertaining to the subject or suspect.
4. The submitting officer must be immediately available during the polygraph examination to assist the polygraph examiner should a matter arise with which the examiner is not familiar.
5. The submitting officer shall prepare duplicate copies of all case reports for the polygraph examiner's use, including the offense and investigative reports, and all background information on the subject to be tested.
6. Intensive interrogation close to the time of the examination should be avoided so that an accurate determination of truthfulness can be accomplished. Prolonged interrogation of a subject runs the risk of producing an exhausted or antagonistic subject who may not be fit for the examination.
7. The physical and mental condition of the subject should be as near normal as possible. It is desirable that the subject has had a normal amount of food and sleep the twenty four hour period preceding the polygraph examination. *The subject **must not** be told to discontinue necessary medication.*
8. The subject should not be advised of the method in which the polygraph examination is to be conducted. The subject should simply be informed that the entire procedure will be fully explained to him by the polygraph examiner.
9. If questioned, the submitting officer should reinforce the subject of the competency of the polygraph examiner and the soundness of the polygraph technique. However, the polygraph instrument should never be described as infallible.

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10. The submitting officer should carefully avoid disclosure to the subject of any details or facts established during the investigation. *Facts concerning the crime, which could only be known to the perpetrator, should never be told to the subject, the press, or the general public. These facts could be of vital importance to the investigator during test and question formulation.*
11. The polygraph instrument will not be used as a psychological “prop” while conducting interrogations.
12. A prospective examinee must never be informed that his innocence or guilt will be decided based on the results of the polygraph examination.
13. The submitting officer should not request a “mass screening” of possible suspects, for example, entire companies or large groups, in order to produce a valid suspect. This mass screening indicates that not all investigative techniques and procedures have been followed, or not all leads have been exhausted.
14. The submitting officer does not make the final determination as to the examinee’s fitness to submit to a polygraph examination. The polygraph examiner will be contacted and will make that determination on his own or in consultation with medical, legal or other personnel, as appropriate.
15. A submitting officer must never assume his investigation is completed with the polygraph examination. The development of information through the use of the polygraph normally leads to evidence or facts that must be collected or evaluated, prior to the successful conclusion of the investigation.
16. *The submitting officer will maintain confidentiality at all times.*

**V. Factors that may prohibit polygraph examinations [LE 42.2.6]**

- A. A polygraph examination will not be conducted on any subject if, in the opinion of the examiner, the subject is physically or mentally unfit, or the examination may be a detriment to the subject’s health.
- B. A polygraph examination will only be given to a subject who has voluntarily agreed to submit to the examination, and who has signed a “Statement of Release” form.
- C. Because juveniles less than 17 years of age lack physical and emotional maturity, polygraph testing at best renders results that are inconclusive and therefore, will not be tested. Juveniles who are 17 may be tested, but only after consent has been granted in writing by the juvenile’s parent or guardian.
- D. Individuals addicted to narcotics or alcohol are not suitable for testing.
- E. The submitting officer must keep in mind that there are several other factors, particularly of a physical or psychological nature, that sometimes will preclude the administration of a polygraph examination. These factors include:
  1. Females suffering from menstrual discomfort.
  2. Females that are pregnant.
  3. Subjects with paralysis.

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4. Subjects with amputations that affect the placement and attachment of instruments used for measurement.
  5. Recent major surgery. Usually the human body requires at least six months to fully recover.
  6. High or low blood pressure or other cardiac problems.
  7. Persons suffering from a severe cold or respiratory disorder.
  8. The subject has not had sufficient nourishment or rest.
  9. Subjects with low mental ability (IQ less than 70) or those that are legally insane or seriously mentally disturbed.
- F. Emotional instability resulting from being involved in an incident, especially if the incident was of a violent nature, may render the subject unsuitable for testing. For example: a victim of an aggravated robbery being given a polygraph examination, shortly after being allegedly robbed.
- G. Under Arkansas State Law (Statute 12-12-106), victims of alleged sexual assaults are not required to submit to a polygraph examination.

#### **VI. Polygraph Examiner Responsibilities [LE 42.2.6]**

- A. The polygraph examiner is responsible for the proper conduct of an examination in accordance with current regulations. The examination must be administered under properly controlled conditions to accomplish the desired results.
- B. The polygraph examiner cannot conduct a competent examination, and by regulation, is prohibited from conducting an examination, when, in his opinion, the subject fits one of the following descriptions:
1. Mentally and physically fatigued. This precludes successful administration of the polygraph test, since the basic concept of the polygraph technique depends upon the ability of the subject to respond physically to mental/verbal stimuli.
  2. Emotionally upset, intoxicated, under the influence of marijuana, a sedative, a tranquilizer, a central nervous system depressant, a stimulant, or is known to be addicted to narcotics. Any of these conditions work to the detriment of the polygraph technique through modifications of physiological responses.
  3. Known to have a mental disorder. Psychosis and severe neurosis and, in some instances, pathological behavior patterns render a subject unfit for the polygraph examination.
  4. Experiencing physical discomfort of a significant magnitude or having physical disabilities or defects that might cause abnormal responses on the polygraph test.
  5. Persons who have not yet reached the age of reason. Young children who have not matured to the extent of fully understanding social responsibilities are not suitable for the polygraph technique (under the age of 17).
- C. The polygraph examiner should ensure that the written authorization to inspect polygraph records is executed.

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## VII. Prohibited Practices [LE 42.2.6]

- A. Fort Smith Police Department polygraph examiners are prohibited from the following activities:
1. Conducting any polygraph examination unless it is duly authorized.
  2. Formulate any questions that probe into a person's thoughts, beliefs, or conduct not directly relevant to the offense or the polygraph technique. The examiner will use certain control questions that may not appear immediately related to the offense in question. However, these control questions are an essential part of the examination technique.
  3. Presenting himself as other than a polygraph examiner by wearing a laboratory coat to create a clinical appearance or by making a statement that he is anything other than a polygraph examiner.
  4. Attempt to make a physical or psychiatric diagnosis of the subject.
  5. Examine any person when, in his opinion, the person is not a suitable subject for the polygraph examination. If any doubt or question exists in the examiner's mind, the examination will be postponed pending a physical or mental evaluation of the subject by competent medical authorities.
  6. The polygraph examiner shall not render a verbal or written opinion based on the chart analysis until the subject has had an opportunity to explain any questionable responses on the chart that the examiner may point out to the subject.
  7. ***The polygraph examiner shall not interrogate or conduct an examination of a subject on his or her sexual behavior, nor ask any questions that can be construed as being sexually oriented, or personally embarrassing to the polygraph subject, regardless of marital status, unless the topic is a separate issue, or unless it is the basic matter pertinent to the examination. Before proceeding with such an examination, the examiner must obtain the subject's written permission and this written permission must be made a part of the test record's file.***
  8. The polygraph examiner is required to have approval from the Chief of Police prior to testing police officers or public officials, or for tests requested by other agencies.

## VIII. Pre-Employment Polygraph Examinations

- A. Applicants for employment as a police officer for the Fort Smith Police Department may be administered a polygraph examination once he or she has been presented a "conditional offer of employment". The polygraph examiner shall utilize an approved and learned polygraph format such as the "Double Phase Modified General Question Technique" or the "Directed Lie Screening Test".

The "Double Phase Modified General Question Technique" polygraph process shall cover the following areas:

1. Illegal drugs and substances
  - a. Usage

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- b. Sales
- 2. Employment thefts
  - a. Merchandise or property
  - b. Money
- 3. Criminal acts
  - a. Undetected crimes
  - b. Target of investigation
- 4. Application truthfulness
  - a. Omissions
  - b. Falsifications
- 5. Employment history
  - a. Completeness
  - b. Accuracy
- 6. Bribes
  - a. Accepting
  - b. Soliciting
- 7. Extortion or gambling
  - a. Gambling debts or activities
  - b. Blackmail activities
- 8. Subversion and ulterior motives
  - a. Sabotage
  - b. Access to confidential information
- 9. Perjury or false statements
  - a. Lying under oath
  - b. False reports or allegations

The "Directed Lie Screening Test" polygraph process shall cover the following areas:

- 1. Involvement with illegal drugs
- 2. Omissions during the background process
- 3. Undisclosed workplace discipline
- 4. Serious undetected crimes

- B. Prior to the examination, applicants shall be informed of the general areas from which questions may be drawn. **[LE 32.2.4]**

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