



# FAIRBURN GEORGIA POLICE DEPARTMENT OPERATIONS MANUAL



## CHAPTER 22      Voice Stress Analysis

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## **1. PURPOSE**

To establish guidelines governing the use and administration of technical aids used for the detection of deception in criminal investigations, administrative investigations, and background investigations for employment applicants.

## **2. POLICY**

The Fairburn Police Department considers the Computer Voice Stress Analyzer (CSA) to be a useful investigative tool, combined with other evidence, in establishing the innocence or guilt of an accused employee or suspect or to uncover background deficiencies of applicants. CVSA examination results by themselves are not sufficient evidence to sustain or void a complaint against an employee or to refuse employment to an applicant.

## **3. RESPONSIBILITIES**

- A. The Criminal Investigations Division (CID) commander will implement this directive with respect to criminal investigations.
- B. The Deputy Chief will implement this directive as it pertains to administrative investigations.
- C. The Deputy Chief will implement this directive as it pertains to applicants for employment.
- D. Computer Voice Stress Analyzer (CVSA) examiners will be certified by qualified institutions providing training for the detection of deception.
- E. Supervisors will monitor their subordinates' compliance with this directive.
- F. Investigators will get approval from their immediate supervisor prior to requesting CVSA examination in any criminal investigation.

## **4. ACTION**

### **A. Investigations**

- 1. The Criminal Investigations Division's examiners may conduct a CVSA exam for investigative purposes.

2. The investigating officer may use the CVSA examination to identify or eliminate possible suspects and to verify information received from witnesses, victims, and suspects.
3. CVSA examinations should be utilized in conjunction with investigative leads and interviews of available suspects, victims, and witnesses. When practical, both the victim and the accused should be tested for comparison.
4. No person involved in a criminal investigation will be forced or coerced into taking the CVSA examination. All persons voluntarily taking an overt examination will sign the CVSA Truth Verification Release Form prior to taking the examination.
5. Examination results cannot serve as a final determinant for an arrest or legal action; rather they should be used to develop leads, verify, corroborate, or refute statements and allegations.
6. The investigating officer may conduct CVSA examination on misdemeanor or felony offenses.
7. Only relevant questions specifically related to the criminal investigation and irrelevant questions necessary to CVSA techniques will be used in the examination.
8. CVSA examinations will be conducted on juveniles only after obtaining consent from either:
  1. The juvenile's legal guardian or custodial parent(s), who must be present during the explanation and must sign documentation related to the examination.
  2. A judge of the juvenile court.
9. CVSA examination results that are part of a criminal investigation for Department employees are public records under the Open Records Act and may be made available for review by the Deputy Chief.
10. All covert CVSA examinations must have the approval of the CID commander, and the Chief of Police.

#### B. Administrative Investigations

1. CVSA examiners may conduct a CVSA exam for administrative investigations.

2. Employees can be required to submit to a CVSA examination during an administrative investigation. An employee who refuses to take a CVSA examination may be subject to further disciplinary action.
3. Examinations may be used to test witnesses, suspects, employees, and complainants with regards to the truthfulness of statements made, or to their credibility as a material witness. When possible, both the complainant and the officer should be tested for comparison. Examination results cannot serve as the sole determinant in the disposition of an investigation or for the decision to close an investigative file.
4. Citizens' complainants and witnesses may be tested with the CVSA to assist in determining the legitimacy of their complaint, allegation, or knowledge of a case. The complainant or witness will sign a CVSA Truth Verification Release Form prior to being tested.
5. Employees will not be compelled to testify against themselves on criminal matters, except in cases of perjury. Examination results, which may incriminate or tend to incriminate the employee, will be kept separate from the pending criminal matters.
6. CVSA examiners may analyze audio taped interviews without the employee's consent or knowledge upon approval of the Deputy Chief and Chief of Police.
7. An employee may request to be administered a CVSA examination when necessary, as part of an administrative or criminal investigation. The results will be included in the employee's investigative file and any statements or admissions made during the examination may not be used as evidence in a court of law unless both sides agree.
8. The question format will be composed of:
  1. Relevant questions-very direct and to the point, pertains to the subject at hand, and contains only one issue.
  2. Irrelevant questions-have no connection with the issue at hand, cause no stress of themselves and are known truths; and
  3. Control questions- which are known truths or known lies and have no connection to the crime.

9. Examination results will be revealed to the accused, the investigating officer, his or her immediate supervisor, the disciplinary authority determining the level of discipline for a complaint, and the CVSA certified examiner asked to “cold call” examine a chart.
10. CVSA examination results are subject to the Open Records Act and may be made available for review.
11. Disciplinary action will not be taken against an employee based solely on the results of a CVSA examination.
12. All covert CVSA examinations must have the approval of the Chief of Police.

C. Background Investigations (if used in lieu of polygraph)

1. Employment applicants will be required to take a CVSA examination as part of the background investigation. Any applicant who refuses to take such an examination will not receive further consideration for employment.
2. Each applicant must sign a CSA Truth Verification Release Form prior to submitting to a CVSA exam.
3. If disqualifying information is revealed during the testing process the applicant will no longer be considered for employment.
4. Candidates are provided with a list of areas from which CVSA questions will be drawn prior to such examination.
5. The results of pre-employment CVSA examination conducted on applicants for sworn or civilian positions will be released to the investigating officer, his or her chain of command, and the CVSA examiner who is asked to “cold call” examine the chart. The CVSA examination results will be included in the applicant’s selection packet; otherwise, the results are confidential and will not be released to or discussed with any other person.
6. Any applicant who fails the CVSA examination will not be discharged solely on the basis of examination results nor will he or she be re-tested. However, the file will be sent to the Background & Recruitment commander for review.
7. Pre-employment passing results will be considered active for six months. After a six-month period, the results will be invalid, and the candidate must be re-tested.

8. The results of all pre-employment examinations including the chart tracing, CVSA reports, and related examinations results will be maintained in a secured storage location, separate from criminal CVSA files. State Law will govern the duration of storage and stipulations for release of this information.

## **5. REQUEST FOR CVSA EXAMINATION**

### **A. Preparation**

1. The investigating officer will submit a written request for a CVSA examination to the examiner. All investigative leads should be thoroughly pursued prior to filing a request for an examination.
2. The investigating officer will not assume a person is unfit for a CVSA examination. If any doubt exists, contact the CVSA examiner.
3. The investigating officer will either complete an investigation prior to an examination being scheduled or consult with the examiner during the course of the investigation. Investigating officers are responsible for providing the examiner with all pertinent information concerning the case and for revising, clarifying, or elaborating on that information, as the examiner may deem necessary. This includes. But not limited to:
  - a. Information that supports the use of an examination.
  - b. Background information on the subject to be examined.
  - c. Any statements made by the subject, complainant, or witnesses, to include alibis.
4. The investigating officer will ensure the examinee is notified of the time and location of the exam and provide transportation, if necessary. He or she will also notify the examiner immediately if the subject cancels an examination appointment.
5. Investigating officer will not interrogate an individual within two hours of his or her scheduled examination. However, interview for general information is acceptable.
6. Investigating officers will not attempt to explain the procedures that will be used in the examination but will advise the subject that the procedures will be

explained by the examiner. The investigating officers may advise examinees that:

- a. The exam is voluntary (except in the case of covert examinations or compelled employee examinations).
  - b. Results of the examination are not admissible in a court of law unless all parties agree in advance.
  - c. Results of the examination cannot be used in any affidavit portion of an arrest or search warrant and taken alone does not provide substantiation for a criminal charge or disciplinary action.
7. The investigating officer will be available to the examiner throughout the course of the exam, unless deemed unnecessary by the examiner.
  8. Results of the examination will be made available to the investigating officer, who will then conduct appropriate follow-up investigations, interviews, and interrogations.
  9. Employees involved in investigations utilizing CVSA exams will not discuss the results of that examination, or in any manner convey information concerning the results of that examination to the examinee's employer (unless employer is the Fairburn Police Department).
  10. Examination results will not be included in any reports, except for the examiner's report generated because of a criminal or administrative investigation being conducted. A police report may indicate that an examination was administered but the details of the examination results must be omitted.

#### B. Examiner's Requirements

1. Examiners will keep their certification current and maintain proficiency in the use of CVSA equipment and examination procedures.
2. Current certification will be maintained. A copy of the employee's certification will be maintained in the employee's training file.
3. Examiners will keep their immediate supervisor informed of all scheduled exams. Each CVSA examiner will keep an accurate log of all examinations performed in CID, Backgrounds and Recruitment. This log will include name

of investigating officer, date of exam, case number, examinee's name, and test results.

4. Prior to an overt CVSA examination, the examinee will be asked to sign a CVSA Truth Verification Release Form, provided by the examiner, in addition to waiving Miranda Rights as applicable, if these rights have not been previously waived for this investigation.
5. All covert CVSA exams will be exempt from the aforementioned waiver and warning requirements. CVSA examinations during covert interviews require the approval of the commanding officer of the Criminal Investigations Division for criminal investigations, the commanding officer of administrative investigations, and the Chief of Police.
6. Prior to administering the examination, the examiner will review the available information pertaining to the investigation and prepare all questions to be used in the examination. To prepare the examinee for the examination, the examiner will explain the examination procedures and review each question with the examinee prior to the examination.
7. Tests and interviews will be conducted in a clean, neat environment free of audible and visual distractions.
8. Certification and diplomas will not be displayed in sight of examinees during the tests.
9. Examiners will be neat and well-groomed and will dress in a manner consistent with departmental standards.
10. No individual, other than the examiner and the examinee will be present inside the examination room during an examination. The only exceptions to this rule would be when an interpreter is used or when a juvenile is being examined.
11. All CVSA examination test results will undergo a "cold call" evaluation by another CVSA examiner to help ensure accuracy prior to the completion of the examiner's report. The second examiner will interpret the CVSA examination and retain according to the current state and federal laws regulating records retention.



12. All charts, examination reports, consent forms, and audio or videotapes will be kept in a secured location, only accessible by the examiners and retained according to the current state and federal laws regulating records retention.
13. Examiners will not conduct an examination on an individual who is not suitable for testing. For example, minors under the age of 17; unless parental or legal guardian consent is obtained prior to testing and the child is able to discern truth from falsehoods. The consent must be in written form and in the possession of the CVSA examiner prior to the examination.
  - a. Any person who had been indicted by a Grand Jury or formally charged with a crime for which the exam is being requested, unless there is an agreement and stipulation signed by the examinee, their attorney, and the prosecutor. The commander of CID and the District Attorney's Office must approve requests for such examination.
  - b. Any person who is extremely agitated or angry will be given some time to become relaxed.
  - c. Any person who is severely mentally challenged or impaired by drugs or alcohol to a point as to cause the examiner concern.
14. Examiners will not conduct an exam that may compromise their integrity. For example, an examiner will not examine someone with whom he or she has a close relationship. This examination request must be referred to a neutral examiner.
15. The commander of CID will authorize requests for CVSA examinations by outside agencies conducting criminal investigations. Examination requests from outside agencies on non-criminal investigations will be rejected unless otherwise approved by the Chief of Police.

#### C. Equipment and Recording Keeping

1. The CVSA examiner is responsible for the maintenance, safekeeping, and integrity of the CVSA equipment. Division commander will determine the procedures necessary for the maintenance of the CVSA.

2. The CVSA examiner will complete the CVSA examiner's Log for each individual tested and the CVSA Monthly Statistical Log form will be completed on a monthly basis.
3. The CVSA examiner will maintain copies of each CVSA report, together with CVSA charts and all related papers for a period of five years and indefinitely in a capital offense.

#### D. Calibration

1. Calibration charts and/or maintenance logs will be maintained at the instrument location or with case files.
2. Calibration checks of instruments will be conducted at least twice per month and whenever the instrument is moved to a different location.

#### E. Professional Development

CVSA examiners are encouraged to participate in career development opportunities and are required to participate in professionally recognized annual in-service training for the administration of the CVSA.

## 6. DEFINITIONS

- Administrative Investigation: The inquiry into allegations of misconduct by employees.
- Applicant: Any person who has formally applied for employment with the department.
- Audiotape Analysis: The CVSA examiner's analysis of the recorded response of the taped interview.
- Background Investigation: the pre-employment investigation of the character, work history, etc., of an applicant for employment with the Fairburn Police Department.
- Cold Call: A review by a second CVSA operator (who is not familiar with the details of the case) who evaluates the results of an examination based strictly on the assessment of the charts that were generated from the initial examination.
- Computer Voice Stress Analyzer (CVSA): A technical device that detects, measures, and charts the stress in a person's voice from recordings or live analysis following performance questions.

- Covert CVSA Examination: A live interview by a CVSA examiner with a suspect, victim, or witness. These interviews are recorded live and captured by the CVSA for analysis, without prior knowledge or consent.
- Overt Interview Audio: The CVSA examiner performs audiotape analysis on voluntary interviews from persons that were obtained by investigations. The interviews are designed to capture a yes or no response to preformatted questions. The CVSA examiner will then analyze this taped interview.
- Overt Interview Live: Interviews by the CVSA examiner with the examinee. These interviews are conducted with the examinee's prior knowledge and permission that certain questions will be recorded live and captured on videotape. An overt examination will cease immediately when requested by the examinee.
- Qualified CVSA Examiner: A person who has satisfactorily completed training by the National Institute for Truth Verification (NITV Federal Services) in the use of the CVSA. Only currently certified CVSA examiners will be authorized to use the CVSA.
- Structured Interviews: Audiotape interviews designed to capture responses to preformatted questions that are analyzed by a CVSA examiner.

## **7. CANCELLATIONS**

Any detective who has prior knowledge of suspects, victims, or witnesses that cancel must notify the CVSA examiner as soon as possible.

## **8. REFERENCES**

Commission of Accreditation for Law Enforcement Agencies, (CALEA) 5<sup>th</sup> edition, standards 32.2.4, 32.2.5, 32.2.6, 52.2.6, and 42.2.6,

US v Scheffer, 96-1133, October 1997

The 1998 Employee Polygraph Protection Act.

Computer Voice Stress Analyzer (CVSA) Operating manual

CVSA Request Form

CVSA Truth Verification Release Form

CVSA Examiner's Log

CVSA Monthly Statistical Logs

CVSA Approval Form for Covert Examination Form