



DEPARTMENT OF PUBLIC SAFETY POLICIES & PROCEDURES



Subject: Polygraphs		Policy Number: OPR: 66
Revision Number: Original	Effective Date: 04/25/2024	Original Issue Date: 04/18/2024

1) PURPOSE

- a) The purpose of this policy is to prescribe procedural guidelines regarding the authorization, use, administration, and reporting of all polygraph examinations that are conducted on any criminal suspect(s), agency employee(s), witnesses, and/or individuals seeking employment with the New Mexico Department of Public Safety.

2) POLICY

- a) The polygraph will be used selectively as an investigative aid and the results are to be considered within the context of a complete and thorough investigation. Although the polygraph technique is considered highly reliable and valuable as an investigative tool, the polygraph results are not to be relied upon to the exclusion of other evidence or knowledge obtained during the course of a complete and thorough investigation. The use of the polygraph as a substitute for a complete and thorough investigation will be prohibited. All polygraph examiners and exam will be supervised by the Training and Recruiting Bureau Commander.

3) APPLICABILITY

- a) This policy applies to all New Mexico State Police employees of the New Mexico Department of Public Safety personnel certified and licensed to conduct polygraph examinations.

4) REFERENCES

- a) 61-27B-13 NMSA 1978, Polygraph Examiners
- b) 11-707 NMRA 1978, Polygraph Examinations
- c) NMAC 16.48.2.16 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A POLYGRAPH EXAMINER LICENSE
- d) NMAC 16.48.6.8(D) CONTINUING EDUCATION

5) DEFINITIONS



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a) **NONE**

6) OPERATIONAL PROCEDURES

a) All polygraph examiners will be supervised by the Training and Recruiting Bureau Commander when conducting any type of polygraph exam.

b) General Guidelines

i) Examination Purpose

(1) A polygraph examination is an aid to, but not a substitute for, an investigation.

(2) Results may be used to verify the accuracy of statements or to obtain additional facts concerning an investigation.

ii) Types of Examinations

(1) There are three types of polygraph examinations that may be conducted by DPS polygraph examiners:

(a) Pre-employment examinations

(b) Internal administrative investigation examinations

(c) Criminal investigation examinations

iii) Conducting a Polygraph Examination

(1) A case number will be assigned by the DPS polygraph examiner conducting the examination. Examinations requiring a case number include the following.

(a) Pre-employment examinations

(b) Internal administrative investigation examinations

(c) Criminal investigation examinations

(2) Prior to the test, the examiner will explain the polygraph procedure to the subject in preparation for the examination.

(3) The polygraph examiner will inquire about the subject's health, medical history, and/or use of medications as necessary to determine the subject's ability to take the examination.

(a) Polygraph examinations will not be conducted on any person whom the examiner reasonably believes to be physically or emotionally unsuitable for testing, to include, but not limited to, persons with heart conditions, women who are pregnant, individuals who have had major surgery in the last six months and individuals taking certain types of medication that may interfere with the test results.



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- (b) When a subject's medical condition may inhibit the administration of an examination, the examiner may seek guidance from an appropriate health care provider.
- (c) An examiner may request the examinee to obtain a medical clearance from a qualified healthcare professional to complete an examination.
- (4) A DPS polygraph examiner will not conduct a polygraph examination on a subject if it is felt for any reason that an unbiased examination cannot be given.
- (5) The examiner will be responsible for preparing all questions used in the examination.
 - (a) Prior to the examination, each test question will be reviewed with the person being tested.
 - (b) An officer will not knowingly make a false report to the DPS or the agency that requested investigative assistance.
 - (c) No written report will be submitted to DPS or other agency except by the certified polygraphist which conducted the examination, and the polygraphist submitting the report will exercise diligence in ascertaining whether the facts and information of the report are true and correct.
 - (d) When conducting an exam, the polygraphist will not use a title or wear a uniform, use an insignia, use an identification card or make a statement with the intent to give an impression that the polygraphist is connected in any way with the federal or state government or a political subdivision of either.
 - (e) A polygraph examiner will not ask questions during the course of a polygraph examination relative to sexual affairs of an examinee, the examinee's race, creed, religion or union affiliation or an activity not previously and specifically agreed to by written consent.
 - (f) A DPS polygraphist will not ask or require an adult, youth or child victim of a sexual offense provided in Sections 30-9-11 through 30-9-13 NMSA 1978 to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation, charging or prosecution of the offense.



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- (g) The following issues are not to be used as a sole basis of an investigation; therefore, no questions are to be formulated or asked pertaining to these issues unless so directed by the court.
 - (i) Religious beliefs or affiliations
 - (ii) Beliefs or opinions regarding racial matters
 - (iii) Political beliefs or affiliations
 - (iv) Beliefs regarding union or labor organizations
 - (v) Sexual preferences
- (6) An examination will cease immediately if requested by the subject.
- (7) The polygraph coordinator will be immediately notified anytime a DPS polygraph examiner is believed to have deviated from standard policies and protocols in the administration of a polygraph examination.
- c) Pre-employment Investigations
 - i) Polygraph examinations may be given prior to conditional offer of employment as an integral part of the background investigation.
 - ii) Applicants will be required to complete a Pre-Polygraph Interview Questionnaire in advance of the pre-employment examination.
 - iii) Applicants will be required to provide written responses to the Pre-Polygraph Questionnaire prior to the administration of the pre-employment examination.
 - iv) The examiner will limit questions to those provided in advance, except, the examiner may ask additional questions to explore issues where the test indicates that the applicant may have lied, or where insufficient information was provided to the examiner.
 - v) All polygraph results will be stored in a locked file with the polygraph examiner.
 - vi) Discussion of the specific results of any polygraph associating the results with any individual is prohibited except for limited discussion pertaining to business purposes. Release of information that an applicant self-disclosed may only be done for business purposes.
 - vii) Specific business purposes include, but are not limited to, limited disclosure during background investigation to assure that questionable conduct is sufficiently researched. Inappropriate release of information may be cause for disciplinary action.



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- viii) Polygraph results will be used as an investigative aid only and in no way will the polygraph be the sole determination for disqualifying someone from the application/recruitment process.
- ix) The purpose of polygraph examinations in the selection process is to provide additional information to select the most qualified applicants and to disqualify applicants who do not meet NMSP standards as demonstrated by past actions.
- d) Internal Administrative Investigations
 - i) After reviewing all the information collected in the course of an investigation of an employee the DPS Secretary, or designee, may order the officer to submit to a polygraph examination administered by a licensed polygraph examiner, provided that:
 - (1) All other reasonable investigative means have been exhausted; and
 - (2) The employee has been advised of the reasons for ordering the polygraph examination.
 - ii) Polygraph results obtained during the course of an internal investigation will be stored in a locked file with the polygraph examiner.
- e) Criminal Investigations
 - i) All requests for criminal specific polygraph examinations will require at least 48 hours notice, in writing, and must meet the following requirements:
 - (1) Provide a complete copy of the case file report.
 - (2) Provide a list of proposed questions to be asked during the polygraph examination.
 - (3) The case agent making the request must also be present at the polygraph examination.
 - ii) The subject to be tested on the polygraph procedure must not have been interrogated regarding the investigation for at least 24 hours.
 - iii) The polygraph coordinator will be in charge of screening the case facts to determine if substantial benefit can be made towards the resolution of the matter at hand by the use of a polygraph procedure.
 - iv) All requests will be reviewed by the polygraph coordinator.
 - v) All polygraph results will be stored in a locked file with the polygraph examiner.
- f) Certification and Training

Prior to administering any polygraph examination, employees will have attended and successfully completed a course of study in Polygraph Science



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and Methodology at a school accredited by the American Polygraph Association and must also:

- i) Maintain an active membership in the American Polygraph Association (APA) or the American Association of Police Polygraphists (AAPP).
- ii) Attend the mandated 20 hours of continuing education every year; and
- iii) Attend and or complete any other training required by the department or professional organization.

7) ATTACHMENTS

a) NONE

8) APPROVAL

APPROVED BY: _____

DPS Cabinet Secretary

DATE: 4-25-24