

 <p>ARIZONA DEPARTMENT OF CORRECTIONS</p> <p>DEPARTMENT ORDER MANUAL</p>	<p>CHAPTER: 600 INSPECTIONS/INVESTIGATIONS</p>	<p>OPR: IG</p>
	<p>DEPARTMENT ORDER: 603 <i>POLYGRAPH SERVICES</i></p>	<p>SUPERSEDES: DO 603 (09/01/96)</p>
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## PURPOSE

The purpose of this Department Order is to specify guidelines to be followed during polygraph examinations within the Department for administrative and criminal investigation purposes. The polygraph is a legitimate investigative tool that can serve a useful purpose as a supplement to interviews and other investigative techniques. Polygraph tests may be required **under extraordinary circumstances and on a limited basis only** during administrative investigations of alleged employee misconduct, and as part of the pre-employment selection process. The Division Director for Support Services shall approve all polygraph examinations for employees who are under administrative investigation.

## RESPONSIBILITY

The Inspector General or designee is responsible for authorizing polygraph examinations subject to the restriction above and shall ensure that the provisions of this Department Order are enforced.

## PROCEDURES

### 603.01 POLYGRAPH UNIT - GENERAL GUIDELINES

- 1.1 The Inspector General shall ensure that Polygraph Examiners:
  - 1.1.1 Conduct lawful, professional, ethical and courteous examinations in accordance with this Department Order and Department Order #601, Administrative Investigations and Employee Discipline.
  - 1.1.2 Conduct examinations associated with the investigation of complaints and/or allegations of employee misconduct under extraordinary circumstances and on a limited basis that are authorized by the Division Director for Support Services.
  - 1.1.3 Conduct examinations to assist investigators with obtaining information needed for administrative and/or criminal investigations.
  - 1.1.4 Conduct pre-employment investigations of Correctional Officer candidates or other Department employee and applicants when appropriate.
  - 1.1.5 Make examination results available to the investigators, approving authorities and attorneys representing the Department, but otherwise keep the results confidential except as required by statute or court order.
  - 1.1.6 Inform the person to be tested that the examination results will be kept confidential, except as required by statute or court order, but that the results shall be shared with the investigator, the approving authority and attorneys representing the Department.
  - 1.1.7 Inform the person to be tested of the basic issues being investigated.
  - 1.1.8 Inform the person to be tested of the questions to be asked.
  - 1.1.9 Inform the person tested of the examination results.

1.1.10 Adhere to all statutes, regulations and professional ethical standards related to the conduct of polygraph examinations.

1.2 Employees and applicants:

1.2.1 Shall cooperate with the Polygraph Unit in accordance with this Department Order and Department Order #601, Administrative Investigations and Employee Discipline.

1.2.2 Shall respond fully and truthfully to questions asked by the examiner.

1.2.3 May be subject to disciplinary action, including dismissal or failure to be hired, for failing to cooperate fully with the Polygraph Examiner.

## 603.02 POLYGRAPH EXAMINATIONS - GENERAL PROVISIONS (EXCLUDING INTERVIEWS)

1.1 When an approving authority or the case investigator requests that a polygraph examination be administered in a criminal case, he or she shall obtain the consent of the Inspector General or designee. In administrative investigation, the Division Director for Support Services may authorize an examination of a staff member only if extraordinary circumstances are established within the investigation.

1.1.1 In cases where inmates report staff misconduct, and if during the investigation use of the polygraph becomes appropriate, the inmate may be polygraphed with the approval of the Inspector General or designee to substantiate the allegations.

1.1.2 When staff report alleged misconduct regarding another staff member, it is required that the accuser cooperate fully during the investigative process. The Division Director for Support Services may approve staff polygraph examinations on a limited basis if extraordinary circumstances exist.

1.1.2.1 In some instances, there may be a lack of any investigative means of supporting the truthfulness of a complaint, i.e., lack of witnesses, or no independent evidence, which results in an impasse. Absent extraordinary circumstances in which a polygraph examination would be authorized by the Division Director for Support Services, the case shall be returned to the approving authority for managerial discretion.

1.1.2.2 Regardless of who is requested to take the examination, the initial request for polygraph support shall fully cite the reason(s) that a polygraph is needed, and why the polygraph is appropriate for the person who is requested to take the examination.

1.2 Investigators, or their supervisors, shall:

1.2.1 Schedule approved polygraph examinations, in consultation with the Polygraph Examiner.

1.2.2 If extraordinary circumstances exist, and an employee is to be tested, notification shall be provided at least 48 hours in advance of the examination when possible.

1.3 Polygraph examinations may be used in the following situations:

1.3.1 To confirm information developed by other investigative techniques.

1.3.2 To develop or confirm new investigative leads.

- 1.4 Polygraph examinations shall not be used in the following situations:
  - 1.4.1 To determine if an allegation warrants an investigation (or a preliminary investigation).
  - 1.4.2 In lieu of traditional investigative methods when they are capable of providing solid information or legally admissible evidence.
  - 1.4.3 Any administrative case involving allegations of misconduct, or to resolve disputes or conflicting statements, unless special circumstances exist and are approved by the Division Director for Support Services.
- 1.5 A Correctional Officer may be required to submit to a polygraph examination if that officer makes a statement during the investigation that differs from other known information relating to the investigation and that reconciling that difference is necessary to complete the investigation. Under such circumstances, the Department or the Polygraph Examiner shall make an audio recording of the complete polygraph procedure and provide a copy of the recording to the officer.
- 1.6 The assigned investigator shall assist the Polygraph Examiner, as needed, to prepare questions that are narrow in scope and that specifically relate to the allegations of misconduct.
- 1.7 The Polygraph Examiner may also ask additional technical questions. Prior to asking the questions during the examination process, the Polygraph Examiner shall review all questions with the person who is to be examined.
- 1.8 The Polygraph Examiner is solely responsible for the conduct of an examination. If the Polygraph Examiner determines that the examination cannot be completed at a given session, the investigator shall reschedule the examination until the Polygraph Examiner determines that it is complete.
- 1.9 The examinee shall not make notes or tape record any portion of the polygraph examination, which includes questions posed to the concerned examinee before, during, and after the period of time that the examinee is actually connected to the polygraph instrument.
- 1.10 In preparation for a polygraph examination, the Polygraph Examiner may meet with the individual who conducted the initial interview of the examinee, or anyone else who is familiar with the investigation, to clarify questions to be asked. The Polygraph Examiner may also review all available case reports prior to the examination date.
- 1.11 Legal counsel or other representative of the examinee may not be present at any time during the course of a polygraph examination.
- 1.12 The assigned investigator shall report the written findings from the polygraph examination to the Inspector General.
- 1.13 The Inspector General or designee shall maintain records of polygraph examinations in a secure area for 36 months. The polygraph examinations shall be purged and destroyed in accordance with Department Order #103, Correspondence/Records Control.

## 603.03

### POLYGRAPH EXAMINATIONS - ADMINISTRATIVE MATTERS

- 1.1 With special circumstances, if an employee is directed to take a polygraph examination they shall appear and truthfully answer all questions asked by the Polygraph Examiner. It shall be deemed a refusal, if the employee refuses to:

- 1.1.1 Appear at the initial and/or follow-up examinations.
- 1.1.2 Answer the Polygraph Examiner's questions or otherwise cooperate with the Polygraph Examiner.
- 1.2 If an employee declines a polygraph examination directed by the Division Director for Support Services the employee may be disciplined for refusing to comply with an order to submit to testing.
  - 1.2.1 A request that the Division Director for Support Services order an employee to submit to a polygraph examination shall include:
    - 1.2.1.1 A brief case summary.
    - 1.2.1.2 An explanation of what special circumstances exist and why the examination is necessary.
  - 1.2.2 The Division Director for Support Services or designee shall advise each requester whether a polygraph examination is approved or disapproved.
  - 1.2.3 If the polygraph examination is approved, the investigator shall convey to the employee to be tested a written order to submit to a polygraph examination signed by the Inspector General or designee.
  - 1.2.4 The employee who receives the written order shall appear and truthfully answer all questions asked by the Polygraph Examiner. It shall be deemed a refusal, subjecting the employee to disciplinary action, if the employee refuses to:
    - 1.2.4.1 Appear at the initial and/or follow-up examinations.
    - 1.2.4.2 Answer the Polygraph Examiner's questions or otherwise cooperate with the Polygraph Examiner.
- 1.3 Information obtained from answers to questions, including admissions, confessions, and the Polygraph Examiner's opinion as to whether the employee properly submitted to the test or whether the test indicated truth or deception, may only be used in administrative proceedings. No information or findings from an administrative case may be used against the employee in a criminal proceeding.

#### **603.04**

#### **POLYGRAPH EXAMINATIONS - CRIMINAL MATTERS**

- 1.1 During the course of a criminal investigation, the Inspector General may issue a written request to an employee to submit to a polygraph examination.
  - 1.1.1 Concerned employees shall be advised of their constitutional rights and their right to accept or refuse the examination in this context without the threat of disciplinary action.

- 1.1.2 Refusal to submit to a polygraph examination cannot be used against the employee in a criminal prosecution.
- 1.2 Any information derived from a criminal investigation may be used by the Department in administrative proceedings.

{Original Signature on File}

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Dora B. Schriro  
Director

## IMPLEMENTATION

Within 90 days of the effective date of this Department Order, the Inspector General shall issue a Technical Manual that addresses, at a minimum the following:

- Authorization to perform polygraph examinations
- Training and qualifications of Polygraph Examiners
- Duties and responsibilities of Polygraph Examiners
- Conduct of polygraph examinations/procedural matters
- Polygraph support to outside/external agencies
- Procedures for requesting polygraph support/examinations
- Procedures for scheduling polygraph examinations
- Procedures for reporting results of polygraph examinations
- Testifying at tribunals, trials and hearings
- Maintenance of record and file systems
- Polygraph equipment maintenance and calibration procedures
- Administrative and logistical support to the Polygraph Unit