

 <p>ARIZONA DEPARTMENT OF CORRECTIONS</p> <p>DEPARTMENT ORDER MANUAL</p>	<p>CHAPTER: 600 INSPECTOR GENERAL</p>	<p>OPR: DIR</p>
	<p>DEPARTMENT ORDER: 603 <b>POLYGRAPH SERVICES</b></p>	<p>SUPERSEDES: DO 603 (07/26/04)</p>
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## PURPOSE

This Department Order establishes the standards and procedures for polygraph examinations of Department employees and inmates to confirm/support information gained by other investigative techniques and/or develop or confirm new investigative leads within administrative and criminal investigations. Polygraph examinations shall not be used to determine if an investigation/preliminary investigation are necessary or in place of traditional investigative methods capable of providing solid information or legally admissible evidence.

The Polygraph Examiners referenced in this Department Order are the agents, representatives, employees or sub-contractors of the Polygraph Examination Contractor. Polygraph Examination services shall be in accordance with the Department's contract with the Polygraph Examination Contractor.

## APPLICABILITY

This Department Order is not applicable to polygraph examinations for pre-employment purposes as outlined in Department Order #602, Background Investigations, or polygraph examinations of Debriefed Security Threat Group (STG) inmates, as outlined in Department Orders #806, Security Threat Groups (STGs) and #704, Inmate Regulations.

## RESPONSIBILITY

The Inspector General or Deputy Director shall:

- Approve all employee polygraph examinations for administrative and criminal investigation purposes.
- Ensure the provisions of this Department Order are enforced.

The Inspector General or designee shall approve inmate polygraph examinations for administrative and criminal investigation purposes.

## PROCEDURES

### 603.01 POLYGRAPH EXAMINATION GUIDELINES (EXCLUDING INTERVIEWS)

#### 1.1 Employees and Inmates (examinees)

- 1.1.1 Employees may be required to submit to a polygraph examination if they make a statement during the investigation that differs from other known information relating to the investigation and reconciling that difference is necessary to complete the investigation. Under such circumstances, the Polygraph Examiner shall make an audio and/or video recording of the complete polygraph examination procedure and provide a copy of the recording to the employee within ten business days of the polygraph examination.
- 1.1.2 Employees reporting alleged misconduct of another employee may be subject to a polygraph examination if no other investigative methods can be used to determine the truthfulness of a complaint (i.e., lack of witnesses or independent evidence), which results in an impasse.
- 1.1.3 Inmates reporting alleged staff misconduct may be subject to a polygraph examination to substantiate the allegations upon the approval of the Inspector General or designee.

1.1.4 Employees and inmates alleging sexual assault or abuse shall not be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

1.1.5 Polygraph Examinations

1.1.5.1 Examinees shall not take 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 the examinee is actually connected to the polygraph instrument.

1.1.5.2 Legal counsel or other representatives of the examinee shall not be present at any time during the course of a polygraph examination.

1.2 Approval, Notification, Scheduling and Preparation

1.2.1 To obtain approval for a polygraph examination, the investigator or supervisor (requestor) shall:

1.2.1.1 Complete Polygraph Examination Order, Form 603-1, which details the following:

1.2.1.1.1 The employee's name and Employee Identification Number (EIN) or the inmate's name and Arizona Department of Corrections Identification Number (ADC number).

1.2.1.1.2 Administrative investigation or criminal investigation case number.

1.2.1.1.3 A brief case summary that specifies the reason(s) for the employee or inmate to have a polygraph examination.

1.2.1.2 For employee polygraph examinations, submit Polygraph Examination Order forms to the Inspector General or the Deputy Director in absence of the Inspector General.

1.2.1.3 For inmate polygraph examinations, submit Polygraph Examination Order forms to the Inspector General or designee.

1.2.2 The Inspector General or Deputy Director shall approve or disapprove the Polygraph Examination Order form and return the form to the requestor.

1.2.3 The requestor shall:

1.2.3.1 If the polygraph examination is approved:

1.2.3.1.1 Schedule approved polygraph examinations in consultation with the Polygraph Examiner.

1.2.3.1.2 Indicate the scheduled time, date and location information for the polygraph examination on the Polygraph Examination Order form.

1.2.3.1.3 Provide a copy of the Polygraph Examination Order form to the examinee. When possible, notification shall be provided at least 48 hours in advance of the examination.

1.2.3.1.4 Assist the Polygraph Examiner, as needed, to prepare questions narrow in scope and which specifically relate to the allegations of misconduct.

1.2.3.2 Place the original Polygraph Examination Order form in the investigative case file.

### 1.3 Administrative Investigations

1.3.1 Polygraph examination results for administrative investigation purposes may only be used in administrative investigation proceedings. No information or findings from an administrative investigation case may be used by the Department in a criminal investigation.

1.3.2 The investigator shall advise examinees who are the subject of an administrative investigation of their Garrity Warning prior to initiating the polygraph examination.

1.3.3 Examinees shall:

1.3.3.1 Cooperate with the Polygraph Examiner. It shall be deemed a refusal if the examinee refuses to appear at the initial and/or follow-up examinations or refuses to answer the Polygraph Examiner's questions or otherwise refuses to cooperate with the Polygraph Examiner.

1.3.3.2 Respond fully and truthfully to questions asked by the Polygraph Examiner.

1.3.4 The results of a polygraph examination in an administrative investigation shall not be the sole basis for disciplinary action.

### 1.4 Criminal Investigations

1.4.1 Polygraph examinations may be used by the Department in a criminal investigation.

1.4.2 Refusal to submit to a polygraph examination cannot be used against employees in a criminal prosecution.

1.4.3 The investigator shall advise examinees who are the subject of a criminal investigation of their constitutional rights and their right to accept or refuse the polygraph examination in this context without the threat of disciplinary action.

### 1.5 Records Retention

1.5.1 The Inspector General or designee shall maintain polygraph examination records in a secure area.

- 1.5.2 The Inspector General or designee shall maintain polygraph examination records in accordance the General Records Retention Schedule for All Public Bodies Administrative Records Law Enforcement Records, available at <http://www.azlibrary.gov/> and Arizona Revised Statutes (A.R.S.) § 38-1101, 38-1104, 38-1108, 38-1134, and 38-1138, based on the respective intention of the polygraph examination.

## 603.02 POLYGRAPH EXAMINERS

- 1.1 The Inspector General shall ensure Polygraph Examiners:
  - 1.1.1 Conduct lawful, professional, ethical and courteous polygraph examinations to assist investigators with obtaining information needed for administrative and/or criminal investigations, in accordance with:
    - 1.1.1.1 This Department Order.
    - 1.1.1.2 Department Orders #601, Administrative Investigations and Employee Discipline and #608, Criminal Investigations.
    - 1.1.1.3 Statutes, regulations and professional ethical standards related to the conduct of polygraph examinations.
  - 1.1.2 Inform examinees prior to beginning the polygraph examination process:
    - 1.1.2.1 That polygraph examination results will be shared with the investigator, their supervisor, the Inspector General and attorneys representing the Department, but will otherwise be kept confidential, except as required by statute or court order.
    - 1.1.2.2 Of the basic issues being investigated, the questions to be asked during the examination process including additional technical questions.
  - 1.1.3 Make examination results available to Department and attorneys representing the Department, but otherwise keep the results confidential as outlined in this section.
- 1.2 In preparation for a polygraph examination, the Polygraph Examiner may:
  - 1.2.1 Meet with the investigator.
  - 1.2.2 Review all available case reports prior to the polygraph examination date.
- 1.3 If the Polygraph Examiner determines the polygraph examination cannot be completed at a given session, the investigator shall reschedule the examination until the Polygraph Examiner determines it is complete.
- 1.4 The Polygraph Examiner shall provide the polygraph examination results to the investigator within five business days of examination. Results shall include the following:
  - 1.4.1 Admissions and/or confessions, if applicable.

- 1.4.2 The Polygraph Examiner's opinion as to whether:
  - 1.4.2.1 The examinee properly submitted to the polygraph examination.
  - 1.4.2.2 Truth or deception was indicated.

## DEFINITIONS

**GARRITY WARNING** - Stands for the proposition that employees are not afforded the protections of the Fifth Amendment Right to Remain Silent and when compelled must answer the interviewers' questions during the administrative investigation. The content of an administrative interview compelled pursuant to *Garrity* may not be admissible in a criminal trial.

{Original Signature on File}

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Charles L. Ryan  
Director

## FORMS LIST

603-1, Polygraph Examination Order

## CROSS-REFERENCE INDEX

Department Order #103, Correspondence/Records Control  
Department Order #125, Sex Offense Reporting  
Department Order #601, Administrative Investigations and Employee Discipline  
Department Order #602, Background Investigations  
Department Order #704, Inmate Regulations  
Department Order #708, Searches  
Department Order #806, Security Threat Groups (STGs)

## AUTHORITY

A.R.S. § 38-1101, Definitions  
A.R.S. § 38-1104, Internal Investigations; Employee Representative; Polygraph Examination; Exception  
A.R.S. § 38-1108, Polygraph Examinations, Exception  
A.R.S. § 38-1134, Internal Investigations; Employee Representative; Polygraph Examination  
A.R.S. § 38-1138, Polygraph Examinations  
29 CFR Part 801, Application of the Employee Polygraph Protection Act of 1988  
The General Records Retention Schedule for All Public Bodies Administrative Records Law Enforcement Records