POLICY

TITLE
POLYGRAPH TESTING OF OFFENDERS

REVIEW/REVISION HISTORY:

Effective: 9/28/00
Revised: 3/9/01
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Reviewed: 8/10/11
Revised: 6/25/12
Revised: 12/1/12
Revised: 2/9/15

SUMMARY OF REVISION/REVIEW:

Defined Community Corrections manager as Polygraph Program Manager throughout II.A.
Adjusted that maintenance/monitoring polygraph examinations may be conducted for offenders with a past sex offense(s)
Added II.A.1. that maintenance/monitoring polygraphs will be imposed as a condition for applicable offenders when not already ordered in the Judgment and Sentence
Added IV.A.5. that contracted polygraph examiner candidates must submit a certificate of liability insurance
V.B.5. & C., VI.B.1., and VIII.B.1. - Added clarifying language
Removed Attachment 1 to be posted on Department intranet website

APPROVED:

Signature on file

BERNARD WARNER, Secretary
Department of Corrections

1/9/15
POLICY: POLYGRAPH TESTING OF OFFENDERS

REFERENCES:

DOC 100.100 is hereby incorporated into this policy; RCW 10.99.020; DOC 390.600 Imposed Conditions; DOC 550.100 Offender Grievance Program; DOC 810.015 Criminal Record Disclosure and Fingerprinting; Polygraph Standards; PREA Standards 115.71(e) and 115.271(e); Records Retention Schedule

POLICY:

I. The polygraph is a valuable tool in monitoring offender compliance with conditions established by the court or through a recognized administrative process. Polygraph examinations will supplement, not substitute, other forms of investigation. No adverse action will be taken solely on the basis of a polygraph examination that indicates deception.

II. Offenders may be required to submit to polygraph testing per:

A. The offender’s Judgment and Sentence,
B. Conditions established by the Indeterminate Sentence Review Board (ISRB),
C. Special Sex Offender Sentencing Alternative (SSOSA) sentences,
D. Conditions imposed per DOC 390.600 Imposed Conditions, or
E. The internal investigation process.

III. Offenders who are alleged victims, reporters, or witnesses in Prison Rape Elimination Act (PREA) investigations will not be asked or required to submit to a polygraph examination regarding the alleged misconduct under investigation.

IV. Individuals conducting polygraph examinations on any offender under the Department’s jurisdiction must have a current contract with the Department and comply with the Polygraph Standards.

DIRECTIVE:

I. Responsibilities

A. The Assistant Secretary for Community Corrections will designate a Polygraph Program Manager to oversee polygraph issues and uniform implementation of the Polygraph Program statewide. The Polygraph Program Manager will:

1. Confirm that polygraph examiners adhere to the Polygraph Standards.
2. Maintain an updated list of approved polygraph examiners. The list will be provided at the request of the Polygraph Coordinator/Scheduler.
B. Superintendents will designate a Polygraph Coordinator and forward the name to the Polygraph Program Manager/designee.

C. Each Community Corrections Supervisor (CCS) will identify a Polygraph Scheduler and forward the name to the Polygraph Program Manager/designee. The Polygraph Scheduler will schedule polygraph appointments for the office and coordinate with the polygraph examiner under direction of the Community Corrections Officer (CCO).

II. General Requirements for Community Corrections

A. Maintenance/monitoring polygraph examinations will be conducted for offenders on supervision for a sex offense(s). Maintenance/monitoring polygraph examinations may also be conducted for offenders with a past sex offense(s) and offenders with a current conviction that includes a domestic violence finding per RCW 10.99.020 who have a no contact condition of supervision.

1. For offenders subject to these polygraphs, the CCO will impose a polygraph condition per DOC 390.600 Imposed Conditions if the condition has not already ordered in the Judgment and Sentence.

2. These offenders will complete a minimum of one maintenance/monitoring examination every 6 months or as ordered in the Judgment and Sentence.

   a. Criminal issue/event specific polygraph examinations will not satisfy the minimum requirement for maintenance/monitoring polygraphs.

3. For offenders who are participating in sex offender treatment, a maintenance/monitoring examination may occur more frequently, but not more than every 3 months. The CCO will consult with the treatment provider to determine the need for more frequent polygraphs and forward recommendations to the CCS for approval.

B. Sexual history polygraph examinations will be conducted for offenders on supervision for a sex offense(s), as approved by the CCS.

C. Criminal issue or event specific polygraph examinations will be conducted for offenders on supervision upon reasonable suspicion that a violation of supervision has occurred, and as approved by the CCS.

III. General Requirements for Prisons

A. Polygraph examinations may be conducted for Prison offenders in conjunction with investigations coordinated by the Intelligence and Investigations Unit.
IV. Application Process for Polygraph Examiners

A. To become a Department contracted polygraph examiner, candidates must submit the following to Contracts and Legal Affairs:

1. Letter of interest,
2. Proof of qualification,
3. Certifications,
4. Credentials,
5. Certificate of liability insurance,
6. Business license, and
7. A minimum of 3 references, 2 of which are law enforcement agencies.

B. The Polygraph Program Manager will evaluate applications and conduct reference and background checks on candidates when necessary.

C. Polygraph examiners will submit to a criminal background check per DOC 810.015 Criminal Record Disclosure and Fingerprinting.

V. Polygraph Examination Process

A. The requester will:

1. Obtain and witness the offender’s signature on DOC 05-753 Polygraph Examination - Authorization for Release of Information.

2. Notify the Polygraph Coordinator/Scheduler that the offender needs to be scheduled for a polygraph examination.

   a. The requester will provide at least 3 sample questions to ask the offender during the polygraph examination.

   b. For sexual history, criminal issue, and event specific examinations in Community Corrections, the CCO will provide the supervisor’s written approval.

3. Initiate DOC 05-507 Indigency Approval for Polygraphs.

   a. For Community Corrections, the CCO will determine what portion of the polygraph examination fee the offender should pay based on indigency level, and forward the form to the CCS for approval before the polygraph examination.

   b. For Prisons, the requester will indicate that no offender co-payment is required.
B. The Polygraph Coordinator/Scheduler will:

1. Schedule a polygraph examination with one of the Department contracted polygraph examiners and provide the requester with the name of the examiner and the date and time of the examination. Any exceptions to the following must be authorized by the Polygraph Coordinator/CCS:

   a. An offender will not be given more than 4 examinations in a row by the same examiner.

   b. A polygraph examiner will not be scheduled to conduct more than 5 examinations per day.

2. Ensure that the Department office space available for the testing provides adequate safeguards for protecting the rights and privacy of offenders being examined.

   a. For Community Corrections, polygraph examinations will typically be conducted at a Department facility/office or a county jail. The CCS may approve administering a polygraph in another location (e.g., polygraph examiner’s office) under special circumstances if the office space provides adequate safeguards. An employee/contract staff must be present for any off-site polygraph examinations, unless approved by the CCS.

3. Inform the polygraph examiner of the type of polygraph that is needed and provide the sample questions and access to the offender’s file.

4. Notify the offender of the scheduled polygraph examination.

   a. For Community Corrections, the offender will be notified using DOC 05-754 Polygraph Letter or via CeField. The notification will specify the amount the offender is required to pay for the examination.

5. For Community Corrections, on the scheduled examination date, provide the completed DOC 05-507 Indigency Approval for Polygraphs with appropriate payment and approvals to the polygraph examiner.

6. Document the following in the offender’s electronic file:

   a. Date of the scheduled polygraph
   b. Date the offender was notified of the polygraph
   c. Amount the offender is required to pay
   d. Any cancellations/reschedules
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e. Name of the polygraph examiner
f. Date and results of the examination:

1) NDI = No Deception Indicated
2) DI = Deception Indicated
3) Inconclusive = No Opinion
4) No Show or Unable to Test, including reason

g. The final decision and justification for an examination conducted without full payment.

C. For Community Corrections, if the offender fails to bring the full payment indicated on DOC 05-507 Indigency Approval for Polygraphs, the polygraph examiner will immediately contact the CCO/CCS for a decision on whether the examination will be conducted.

1. If the decision is to not conduct the polygraph examination, it will be considered a no show. The polygraph examiner will be compensated at the no show rate, and the offender will be in violation. The CCO will report the offender’s failure to submit to a polygraph and document the report in the offender’s electronic file. The final decision and its justification will be documented on DOC 05-507 Indigency Approval for Polygraphs.

D. The polygraph examiner will immediately notify the requester of the findings and follow up with a written report.

VI. Cancellations

A. The requester or the offender may cancel the polygraph by notifying the Polygraph Coordinator/CCO at least 24 hours in advance of the scheduled polygraph examination, excluding weekends and holidays.

1. The CCO will notify the Polygraph Scheduler of the cancellation of the polygraph examination.

B. The Polygraph Coordinator/Scheduler will notify the scheduled polygraph examiner of the cancellation.

1. For Community Corrections, if the polygraph is not cancelled with 24 hours notice or the offender fails to show for the scheduled appointment, the offender will pay for the unexcused/missed appointment at the no show rate.
VII. Billing Process

A. The polygraph examiner will forward the following to the CCS/Polygraph Coordinator for each examination administered:

1. An SF A-19-1A Invoice Voucher documenting the date the examination was administered, the name and DOC number of the offender polygraphed, the amount the offender paid, and the amount billed, and

2. A completed, signed DOC 05-507 Indigency Approval for Polygraphs.

B. The CCS/Polygraph Coordinator will review the SF A-19-1A Invoice Voucher and DOC 05-507 Indigency Approval for Polygraphs and, if approved, forward to the applicable Business Office for payment.

C. Copies of the SF A-19-1A Invoice Voucher and corresponding indigency forms will be maintained per the Records Retention Schedule.

VIII. Complaint Process

A. Offender complaints/grievances regarding polygraph examiners or testing procedures will be addressed per DOC 550.100 Offender Grievance Program.

B. Other complaints regarding a polygraph or polygraph examiner must be submitted in writing to the Polygraph Coordinator or CCS, as appropriate.

1. The Polygraph Coordinator/CCS will review the complaint and, if appropriate, forward it to the Polygraph Program Manager and Superintendent, Work Release/Residential Program Administrator, or Field Administrator, as applicable.

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

None

DOC FORMS:

DOC 05-507 Indigency Approval for Polygraphs
DOC 05-753 Polygraph Examination - Authorization for Release of Information
DOC 05-754 Polygraph Letter