

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>	EFFECTIVE DATE 07/01/2018	NUMBER 02.01.105
	SUBJECT POLYGRAPH EXAMINATIONS	
SUPERSEDES 02.01.105 (07/23/2001)		AUTHORITY MCL 37.201 <i>et seq.</i> ; MCL 338.1701; MCL 338.1719; MCL 338.1728; MCL 791.203; ERO No. 2007-18; Administrative Rule 338.9004 - 9005
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**POLICY STATEMENT:**

Polygraph examinations shall be conducted only as set forth in this policy.

**POLICY:**

GENERAL INFORMATION

- A. The Department shall make arrangements and pay for polygraph examinations conducted on behalf of the Department except as set forth in Paragraph J. Examinations shall be conducted only by a licensed polygraph operator.
- B. The Department shall not be responsible in any way for polygraph examinations conducted on behalf of another agency or person. However, approval by the appropriate Correctional Facilities Administration (CFA) Assistant Deputy Director (ADD) is required if the examination will be conducted in a correctional facility.

EMPLOYEES AND APPLICANTS FOR EMPLOYMENT

- C. The Department shall not require an employee or applicant for employment to take a polygraph examination for any reason. An employee may voluntarily take an examination, however, staff shall not coerce, request or offer any inducement to do so.
- D. When an employee requests to take a polygraph examination conducted on behalf of the Department, the request shall be submitted in writing through the appropriate chain of command to the appropriate Deputy Director or, if the request is in connection with an investigation being conducted by Internal Affairs in the Office of Executive Affairs (OEA), to the OEA Administrator, or designee for approval. A detailed written explanation of the basis for the request must be included with the request. Prior to approving the request, the Deputy Director, OEA Administrator or designee shall ensure that the request is truly voluntary and that the employee understands that taking the examination is not a condition of employment, promotion or change in status of employment. S/he also shall ensure that provisions of any applicable collective bargaining agreement are followed. If approved, the Deputy Director, OEA Administrator or designee shall ensure that the employee receives a copy of MCL 37.203 and MCL 338.1719 before the examination is conducted.
- E. The opinion of a polygraph examiner as to the truthfulness or deception of an examinee shall not be used as a basis for disciplinary charges against an employee, however, information provided by the examinee may be used consistent with Department of Civil Service Rules, applicable collective bargaining unit agreements and State law.

OFFENDERS

- F. An offender shall not be required to take a polygraph examination by the Department except as set forth in Paragraph J. An offender may request or voluntarily agree to take a polygraph examination, but staff shall not coerce or offer any inducement to the offender to do so.
- G. Approval of the appropriate CFA ADD, FOA ADD or, if in connection with an investigation conducted by Internal Affairs, the OEA Administrator or designee is required before staff request an offender to take a polygraph examination. Prior to the polygraph examination being conducted, the CFA ADD, FOA ADD, or the OEA Administrator or designee shall ensure that the offender has voluntarily agreed to take the

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examination. This paragraph does not apply to parolees required to take a polygraph examination pursuant to Paragraph J.

- H. Prior approval of the appropriate CFA ADD, FOA ADD or, if in connection with an investigation conducted by Internal Affairs, the OEA Administrator or designee also is required to conduct a polygraph examination on an offender pursuant to the offender's request or a request made on behalf of the offender.
- I. The opinion of a polygraph examiner as to the truthfulness or deception of the examinee shall not be admitted as evidence in a hearing conducted by the Department of Licensing and Regulatory Affairs (LARA) or used as an aid for determining parole decisions. However, information provided by the examinee may be used consistent with State law.

#### Polygraph Examinations for Certain Paroled Sex Offenders

- J. The Parole Board may require a parolee who is serving for, or has a history of, a sexual offense or an offense connected with a sexual act to submit to and pay for polygraph examinations as a special condition of parole. In such cases, the parolee shall be required to authorize the release of otherwise confidential information to the polygraph examiner as necessary to conduct the examination. The parolee also shall be required to authorize the release of the opinion of a polygraph examiner as to the truthfulness or deception of the examinee to necessary FOA and treatment staff and, if appropriate, law enforcement authorities. The opinion shall not be released to the Parole Board. Examinations shall be authorized by the Program Manager for the polygraph contract and arranged by the appropriate FOA ADD or designee.
- K. A parolee required to take a polygraph examination pursuant to Paragraph J who refuses to take the polygraph examination, refuses to pay for a polygraph examination or, as determined by the polygraph examiner, attempts to interfere with or circumvent the polygraph examination process may be charged with parole violation. The opinion of a polygraph examiner as to the truthfulness or deception of the parolee shall not be used as the basis for parole violation charges, however, any information provided by the parolee may be used consistent with State law. In addition, if an investigation is conducted based on the polygraph examiner's opinion, evidence obtained during that investigation may be used.
- L. Field staff are required to immediately report to the appropriate law enforcement or other agency (e.g., Family Independence Agency, Department of Health and Human Services) any specific information received from a parolee regarding unreported criminal activity or regarding a threat to the safety of an identified individual. If circumstances appear to warrant contacting the individual directly, approval must be obtained from the appropriate Region Manager prior to such notification. These requirements also apply to information received during the polygraph examination process.

#### OPERATING PROCEDURES

- M. Each Warden and the FOA Deputy Director shall ensure that procedures necessary to implement this policy directive are developed within 60 calendar days after its effective date.

#### AUDIT ELEMENTS

- N. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self-audit of this policy pursuant to PD 01.05.100 "Self-Audits and Performance Audits."

APPROVED: HEW 05/24/2018