

## CHAPTER 10 USE OF POLYGRAPH WITHIN DSS

### Section 1 – General Information

#### 10-100. General Information

a. DSS uses polygraph examinations as a valuable investigative aid to resolve issues in cases under its jurisdiction. Through correct application, polygraph testing can resolve many case issue conflicts.

b. Users of polygraph within DSS should understand that the polygraph is an investigative aid; it is not a substitute for thorough investigative efforts, nor is it a routine part of investigations. Moreover, a delicate balance exists between the government's need to verify investigative information and the preservation of the individual's rights and dignity.

c. Only DoD certified Polygraph Examiners, or Intern Polygraph Examiners when authorized by proper authority, will conduct polygraph examinations.

d. The polygraph technique has certain limitations. Not everyone is suitable for examination. Because of certain physical or psychological considerations, examiners have discretionary powers in electing to decline examining some Subjects. In these instances, examiners will discontinue or postpone the examination until appropriate medical, psychological or technical authorities declare the individual fit for testing.

#### 10-101. Authorization

The DSS Director, or his or her designated representative, has the authority to approve polygraph examinations. DoD Directive 5210.48, DoD 5210.48-R, DSS 20-18-R, and the DSS Polygraph Standard Operating Procedures (SOP) govern both the conduct of polygraph operations within DSS and the selection, training and supervision of DSS Polygraph Examiners. Although DSS Polygraph Examiners support other DoD program areas at the request of the DSS Director or other DoD authority, this Chapter pertains only to using the polygraph in supporting the DSS PSI program.

#### 10-102. Responsibility

The primary function of DSS Polygraph Examiners is to conduct polygraph examinations. However, as trained Investigators, they may also conduct PSIs with the prior approval of the Polygraph Program Manager. A Polygraph Examiner functioning in the role of Investigator will not normally conduct polygraph examinations on an investigation he or she conducted. Managers will assign another examiner to these cases to maintain objectivity.

## Section 2 – Polygraph Process

### 10-200. When to Request Polygraph Examinations

a. When conventional investigative techniques fail to resolve *serious derogatory information* developed during a DSS investigation or inquiry, the Investigator will consider offering the Subject a polygraph examination. The definition of *serious derogatory information* is information which, if confirmed, could result in the following:

1. The denial or revocation of a security clearance.
2. Termination of employment.
3. Criminal prosecution.

b. Derogatory information requiring polygraph resolution *must have* adjudicative significance, per Appendix A of this Manual.

c. *Not all derogatory information is adjudicatively significant.* Much derogatory information is relatively minor in nature, meaning that it would not result in a denial or revocation of a security clearance even if proven.

d. Accordingly, the determination of whether to request a polygraph must be an overall common sense determination based on careful consideration of all of the facts.

1. Is there reliable adverse information that requires resolution?
2. Is the information significant and/or disqualifying?
3. Are mitigating factors involved?
4. Has the investigation corroborated those mitigating factors?

e. When in doubt about submitting a polygraph request, Investigators should contact the Polygraph Office (PO).

f. If the investigation meets the criteria for requesting polygraph examinations as discussed in this chapter, the Investigator will prepare a DSS Form 187, "Request for Polygraph Examination," usually within five working days of Subject's acceptance. *The polygraph examination does not have to be the last lead in an investigation.* Investigators will not hold remaining leads of an investigation in abeyance if they have no bearing on the polygraph issue. For example, an examination on a Subject suspected of rape does not have to wait for receipt of a pending bankruptcy record.

**10-201. Who Can Request Polygraph Examinations**

a. A central adjudicative facility and any DSS personnel who can demonstrate the need to resolve adjudicatively significant derogatory information may request polygraph examinations.

b. Other federal agencies requiring polygraph assistance must either submit their requests through OSD or accomplish a Memorandum of Agreement between agencies for standing assistance.

**10-202. Allegations and Issues That Cannot Be Polygraphed**

Not all situations are suitable for resolution by polygraph. For example, DSS does not polygraph on issues of intent. DSS conducts examinations only concerning specific allegations of wrongdoing as they relate to the adjudicative criteria set forth in Appendix A of this Manual. Investigators will not use vague, nonspecific suspicions as the basis for a polygraph examination.

**10-203. Elements Required for Polygraph**

a. Several elements must be present in order to conduct a meaningful examination.

1. ***Specificity.***

As stated above, the allegation(s) must be specific. The allegations must be received from the interviewee or record information as "Subject *did* . . .," as opposed to "Subject *may* . . ." (Acceptable: Subject *used* cocaine; Subject *stole* money; Subject *removed* classified documents. Unacceptable: individual *believes* Subject uses drugs because he is lethargic; individual stated Subject *may* use drugs because she goes to heavy metal rock concerts.)

2. ***Strength.***

Polygraph issues must have sufficient "strength." If the Subject lies about the issue and the lie, if discovered, could have serious consequences for the Subject, then the issue has "strength."

3. ***Distinctness.***

The person taking the test must *know* that he or she did or did not do the alleged issue or behavior. Generalized allegations that lack distinctness do not pose or relieve a threat to the examinee if the questions are vague and unclear.

b. The three elements above must exist before requesting a polygraph examination. The Investigator will also consider the following questions.

1. Has the conventional investigation or inquiry concerning the issue(s) been as thorough as circumstances permit?

2. Do the issues to be resolved meet the criteria for serious derogatory information?
3. Does the issue lend itself to resolution by polygraph examination?

**10-204. How to Offer the Polygraph**

a. As stated above, Investigators may offer polygraph examinations when adjudicatively significant information that meets the established criteria remains unresolved. When in doubt, the Investigator should proceed with the offer if he or she feels that a polygraph might be appropriate.

b. The Investigator will use his or her best judgment in choosing the words to offer the Subject a polygraph. It cannot be stressed too strongly that DSS **will never use any form of threat, actual or implied, when proposing the polygraph examination.** Doing so is in direct violation of DoD and DSS policy.

c. One example of a successful approach is illustrated below.

John, as it stands now, we have gone about as far as we can go with this investigation. We still have serious unresolved problems concerning [state the issue(s)]. However, DSS has the capability of clearing up situations such as this. I would like to offer you the opportunity to undergo a polygraph examination. Taking the polygraph examination is purely voluntary. However, it is the best means we have for resolving this situation. Would you be willing to help resolve this problem by undergoing a polygraph examination?

*Illustration 10-1*

d. Because the DSS Polygraph Office does not necessarily approve all polygraph requests, the Investigator cannot obligate the agency to conduct an examination. Thus, the offer should include verbiage as illustrated below.

Should it be determined that the information you provided requires further confirmation, would you be willing to undergo a polygraph examination to assist in the adjudication of this case?

*Illustration 10-2*

e. Should the Subject decline the initial offer of a polygraph examination, it is perfectly permissible to advise him or her of the following.

Well John, it is a decision that only you can make. However, if you change your mind, please contact me and I'll make the necessary arrangements.

*Illustration 10-3*

f. Investigators will not go beyond these words. It is never acceptable for the Subject to feel pressured into taking a polygraph.

g. Investigators will not attempt to explain the technical aspects of a polygraph examination. The Investigator may state that the Polygraph Examiner will review all questions beforehand and provide a full explanation of the technique. If the Subject

insists on more details, the Investigator will request the Field Polygraph Examiner to contact the Subject.

**10-205. Advisement Provided to Subjects Accepting Polygraph Offers**

a. If the Subject is willing to take a polygraph, the Investigator will advise the Subject that a DSS representative will notify him or her of the date, time, and place of the examination.

b. When the Subject indicates a willingness to take a polygraph, the Investigator will at that time also tell the Subject that he or she has the right to obtain and consult with legal counsel, and that the Subject's legal counsel may be present for consultation during the polygraph examination.

c. The Investigator will not answer any further questions posed by the Subject regarding legal issues. When this occurs, the Investigator will advise the Subject to consult with his or her legal representative.

d. The advisement in paragraph 10-205.b., above, is merely a notification to the Subject of his or her right to obtain counsel. It is not an advisement of rights against self-incrimination under either the Fifth Amendment or Article 31b of the UCMJ. Only a qualified Polygraph Examiner will administer the rights advisement provided during the pretest phase of the examination (per DSS Form 183).

**10-206. Reporting Requirements**

a. When an Investigator offers the Subject a polygraph examination, the Investigator will record the polygraph designator – (P) – at the end of the entry concerning the issue(s) and again at the end of the Subject Interview write-up.

b. The investigative report will not refer to the polygraph offer, acceptance or declination, other than the polygraph designator. The only indication in the investigative report that a polygraph was offered and was either accepted or declined is the polygraph designator after the entry pertaining to the offer and at the end of the write-up, following the Investigator's badge number, and a lateral lead designator if applicable.

c. The importance of adhering to this new policy cannot be overemphasized. DoD policy and regulations prohibit the reporting of a polygraph declination in an investigative report. The polygraph designator indicates to the Case Analyst and the Adjudicator that the Investigator made a polygraph offer—it does not indicate that Subject declined. If the Subject accepts the offer and a polygraph is administered, the Adjudicator will see the polygraph report with the completed investigation. If there is no polygraph report included with the completed investigation, the Adjudicator will assume that either the Subject declined, or the DSS Polygraph Office disapproved the request.

**NEW POLICY**  
*Investigative reports will no longer contain any reference to a polygraph offer, whether or not the Subject accepted or declined, other than the Polygraph designator – (P).*

*New paragraph that explains the new policy.*

New paragraphs.

d. This change in policy will eliminate the CAF requesting that investigations be reopened and a polygraph offer made when an offer had already been made. It does not preclude the CAF from requesting an investigation be reopened to offer a polygraph examination if an offer was not made during the initial investigation. It will not affect the manner in which they adjudicate the investigation.

e. A Subject's consent and the legal advisement, formerly included in the Subject Interview write-up, will now be reported in the DSS Form 187, "Request for a Polygraph Examination."

f. If the Subject records his or her response to the polygraph offer in the sworn statement, the investigative report will contain the following sentence.

Information pertaining to polygraph matters is in the Subject's statement at [his/her] request.

Illustration 10-4

**Section 3 – DSS Form 187, "Request for Polygraph Examination"**

**10-300. Writing the Polygraph Request**

a. Usually it is the responsibility of the Investigator offering the polygraph examination to the Subject to submit a DSS Form 187, "Request for Polygraph Examination" when the Subject accepts the offer.

b. The DSS Form 187 must contain enough case facts (who, what, why, where, when, how) upon which to make a decision to approve or disapprove the request. Furnishing adequate case facts in the DSS Form 187 precludes the necessity of mailing in the complete case file.

c. The DSS Form 187 will also reflect that the Subject was advised of his or her right to obtain and consult with legal counsel, and that his or her legal counsel may be present for consultation during the polygraph examination.

d. Illustrated below are examples of insufficient and sufficient information from Section III, "Summary of Case Facts, and Issues Alleged that Subject Denied," on the DSS Form 187.

<i>Insufficient Information</i>	<i>Sufficient Information</i>
Subject was arrested on 12 Jun 99 in Anytown, CA for robbing a 7-11 store. Subject denies he robbed the store and is willing to take a polygraph exam to prove his innocence.	Subject was arrested on 12 Jun 99 in Anytown, CA, for robbing the 7-11 store located at 111 Main Street, Anytown. Subject stated that at approximately 11:30 p.m. on the evening of Jun 12 <sup>th</sup> , he was outside the 7-11 using the pay phone. He was having an emotional discussion with his girlfriend (she broke up with him earlier that evening) and was not aware that the store was

	<p>robbed. When the police arrived in response to a silent alarm, he was getting into his truck having concluded his phone conversation. The police car blocked his truck and instructed him to exit the vehicle. He did, not knowing why. They then arrested him because he matched the description of the robber (white male, 6'2", 200 pounds, brown hair, blue eyes). Subject said he never entered the store at all and that his arrest was a case of mistaken identity.</p>
<p>Subject was interviewed on 15 Apr 2001 concerning two unlisted arrests for possession of marijuana, and possible use of illegal drugs. Subject stated that both arrests were mistakes, that the marijuana joints in his possession were not his, and that he has never used any illegal drug to include marijuana. He further stated his recruiter told him not to list the arrests since they were mistakes.</p>	<p>In an interview on 15 Apr 2001, Subject admitted he was arrested twice in Anytown, AZ, for possession of marijuana. The first arrest was 12 May 98. He was stopped for erratic driving (he had been drinking beer at a party), and the arresting officer noticed a marijuana joint in his front shirt pocket. The second arrest was 2 Jan 99. He was stopped for speeding and the arresting officer noticed two loose marijuana joints on his front passenger seat. Subject stated that none of these joints were his. He believes the joint in his pocket was put there by a friend at a party he had just attended, and that the joints in his car belonged to a friend that he had just given a ride home. He denied ever using or knowingly possessing any illegal drug, to include marijuana. He did not list these arrests on his enlistment or security forms on the advice of his recruiter, CPO John Q. Public, USN Recruiting Office, 111 Main St., Anytown, AZ. Public advised him that he did not need to list the arrests since they were mistakes.</p>

*Illustration 10-5*

- e. See Enclosure 20 for examples of completed DSS Forms 187.

**10-301. Submitting the Polygraph Request**

- a. The Investigator (or administrative personnel) will submit the original, typed DSS Form 187 directly to the DSS Polygraph Office (PO) located at Fort Meade, by e-mail or by fax.
- b. It is not necessary to obtain supervisory approval before forwarding the DSS Form 187 to the PO, whether the request is from the field or a Case Analyst at PIC.
- c. Upon receipt of the request, the PO will review the DSS Form 187, open the polygraph lead in CCMS, and then accomplish one of the following actions.
  - 1. If the offer is disapproved, the PO will close the polygraph lead in CCMS within 24 hours. Comparing the opening and closing date of the

CCMS lead will indicate to the Case Analyst that no polygraph examination is pending. The PO will also put a comment in the Case Analyst Notes indicating no polygraph is pending.

2. If the offer is approved, the PO will forward a copy of the DSS Form 187 to the field examiner for scheduling and completion. The open lead will indicate to the Case Analyst that a polygraph examination is pending.

**10-302. Approval/Disapproval of Polygraph Requests**

a. The DSS Polygraph Office (PO) will review the request and the case facts to determine if the unresolved issues meet the criteria for polygraph.

b. If the approval authority approves the polygraph examination, the PO will assign the request to the appropriate polygraph examiner, who will effect the necessary coordination to schedule the examination.

**10-303. Requests for Polygraphs from CAFs and Case Analysts**

*New  
paragraph.*

a. Central adjudicative facilities will submit polygraph requests to the PIC Director, on a DSS Form 187 (obtain copies from the PO, Fort Meade). PIC will forward the request, along with all available case information, to the PO.

b. Case Analysts who determine that a polygraph examination is appropriate will submit a completed DSS Form 187, with all available case information, to the PO.

c. If the PO decides that a polygraph is not appropriate, the procedures set forth above in paragraph 10-301.c., will be accomplished.

d. If the PO decides that a polygraph is appropriate, PIC will be notified to send an Add Lead to the office where the Subject is currently located. If this is the same office that conducted the Subject Interview (SI) pertaining to the issue(s) requiring polygraph resolution, the Investigator who conducted the SI will contact the Subject and offer the polygraph. If it is not the same office that conducted the SI pertaining to the issue(s) requiring polygraph resolution, the supervisor will assign the Add Lead appropriately and the assigned Investigator will contact the Subject and offer him or her a polygraph exam. Investigators will offer the polygraph examination to the Subject in a face-to-face contact; the offer will **not** be done telephonically. The Investigator will advise the Subject of his or her right to obtain and consult with legal counsel, and that his or her legal counsel may be present for consultation during the polygraph examination. The Investigator will include this information on the DSS Form 187( furnished by the PIC) and return it to the PO or include this information in the ROI.

e. The PO will then assign the polygraph exam to an examiner, per paragraph 10-302.b., above.

**10-304. Exculpatory Requests**

a. Exculpatory polygraph examinations are those requested by the Subject of an investigation for the purpose of exoneration. Every effort will be made to honor such requests provided they meet appropriate DoD and DSS guidelines. *Exculpatory requests must originate with the Subject, NOT the DSS Investigator.* Investigators cannot “suggest” that someone make an “exculpatory request.” If this occurs, the request cannot be considered “exculpatory”; it assumes the nature of a normal request.

b. DSS offices will forward exculpatory requests using the procedures set forth in paragraphs 10-300 and 10-301, above.

**Section 4 – Polygraph Examination**

**10-400. Polygraph Procedures**

a. A polygraph examination consists of three phases.

1. Phase One: Pre-test. During the pre-test, the examiner explains the testing procedure and how the instrument functions, conducts a detailed review of the questions that will be asked, and obtains the Subject’s written consent to undergo the polygraph examination.
2. Phase Two: In-test. This is the instrumentation aspect of the examination, during which the examiner asks questions while the instrument records the Subject’s physiological responses. The examiner will complete several charts, each of which includes all of the test questions.
3. Phase Three: Post-Test. During the post-test phase, the examiner discusses the test results with the Subject.

**10-401. Witnessing Polygraphs**

a. DSS encourages Investigators to work with the Polygraph Examiner before, during, and after the polygraph examination.

b. To the greatest extent possible, during opposite gender polygraph examinations, a witness will be present during the exam. The witness will be the same gender as the Subject, and will be a DSS employee or someone the Polygraph Examiner deems reliable and trustworthy. If an observation room is available, authorized personnel may monitor the exam. Otherwise, the witness will be present in the room except for the in-test phase following placement of the attachments on the Subject.

**10-402. Taping Polygraph Examinations**

DoD and DSS policy authorizes polygraph examiners to audio tape and/or videotape polygraph examinations. Polygraph examiners will make such determinations on a case-by-case basis.

**10-403. Polygraph Results**

a. No Deception Indicated (NDI) or No Significant Response (NSR).

1. This conclusion indicates that a preliminary analysis of the polygraph charts revealed no consistent specific physiological reactions to any of the relevant questions; thus, the examiner concludes that the Subject answered the relevant questions truthfully.
2. Please note, however, that the polygraph charts will undergo a further quality analyses at the PO. The Subject will be advised of this second review and told that when the final analysis is complete, an Investigator will inform the Subject if additional testing is needed.

b. Deception Indicated (DI) or Significant Response (SR). The polygraph examiner renders a DI or SR when:

1. A Subject makes an admission to a relevant question.
2. Evaluation of the data indicates the presence of deceptive criteria.

The Examiner will pursue DI results. The examiner incorporates all of the Subject's meaningful admissions and/or confessions into a signed, sworn statement. It is the responsibility of the examiner to take the statement. However, input by the Investigator, if he or she is present, is encouraged at this point.

c. No Opinion. The Polygraph Examiner will render "no opinion" when he or she cannot form a conclusion following an analysis of physiological data. The following conditions may result in a "no opinion": the Subject has a temporary physical disorder, the instrument malfunctions, or the examiner could not establish rapport with the Subject. If the primary series covering the allegation(s) is "no opinion," the Polygraph Examiner may continue if the Subject is willing. Depending on circumstances, this may or may not be on the same day.

d. Incomplete. The Examiner renders a conclusion of "incomplete" when he or she cannot complete the examination. Normally this is due to the Subject declining to participate in the in-test phase of the examination. An incomplete may also result if the Subject declines to complete the examination beyond a certain point, or because of permanent physiological disorders which would render further attempts unproductive.

**10-404. Reporting Requirements**

a. Polygraph Examiners report the results of polygraph examinations in the same automated reporting format used by Investigators and forward the results to PIC for inclusion in the case file. Also forwarded to PIC and included in the case file are the originals of all supporting documents, with the exception of the polygraph charts.

b. PIC furnishes the results of polygraph examinations to the requester. However, DSS retains the technical data and polygraph charts, which are releasable only with the written authority of the DSS Director.

## Section 5 – Additional Guidelines

### 10-500. Additional Guidelines

a. When it is unclear at the *outset* about the advisability of requesting a polygraph to resolve an issue, the Investigator will refer to the Adjudicative Guidelines contained in Appendix A of this Manual. If the issue remains in doubt, the Investigator should make a telephonic inquiry to the field Polygraph Examiner.

b. The Polygraph Examiner is the sole authority in determining which issues in a particular case lend themselves to resolution by polygraph. Polygraph examination reports are normally limited to those issues actually addressed during the polygraph. However, during the statement preparation, Subjects often make meaningful admissions about other issues or problems that the Investigator may or may not have discovered during the investigation. When this occurs, it is perfectly permissible to include the admission in the statement already being prepared. The report prepared by the Polygraph Examiner will contain verbiage such as: “In addition to the admissions made as the result of the polygraph examination, Subject stated that [he/she] wanted to clear up the following matters that had been bothering [him/her]: [list issues/problems]”

c. Clearing up other problem areas is one reason why it is so desirable to have the Investigator available to work with the Polygraph Examiner.