

	<b>JUSTICE AND PUBLIC SAFETY CABINET DEPARTMENT OF JUVENILE JUSTICE POLICY AND PROCEDURES</b>	<b>REFERENCES: 505 KAR 1:160</b>
<b>CHAPTER: JUVENILE SEXUAL OFFENDER TREATMENT PROGRAM</b>		<b>AUTHORITY: KRS 15A.065</b>
<b>SUBJECT: Polygraph Examinations</b>		
<b>POLICY NUMBER: 803</b>		
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<b>APPROVAL: J. Ronald Haws</b>		<b>COMMISSIONER</b>

## **I. POLICY**

The Department shall not routinely employ polygraph examinations with juvenile sexual offenders. Polygraph examinations may be used in exceptional cases for the purpose of detecting deception or verifying the truth of statements of a youth in limited situations where the youth's veracity has become a critical treatment issue. An example is where the youth denies the committing offense and is unable to progress in treatment because of that denial. However, polygraphs shall never be used to determine the prior victimization of an offender, nor shall any youth be referred for a polygraph when he denies the committing offense if he has an appeal pending.

## **II. APPLICABILITY**

This policy shall apply to all DJJ programs, DJJ staff, and approved private individuals or agencies providing services to juvenile sex offenders.

## **III. DEFINITIONS**

Not Applicable.

## **IV. PROCEDURES**

A. Persons meeting the following requirements shall be approved by the agency to provide the polygraph examinations. Required qualifications are:

1. The polygraph examiner shall be a specifically trained clinical polygraph examiner and a graduate from an American Polygraph Association ("APA") accredited school.

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2. The polygraph examiner shall be a member of APA and have completed the APA approved Post Conviction Sex Offender Treatment training (“PCSOT”).
- B. A description of the qualifications and training received by each polygraph examiner, to include diplomas or certifications received and current association membership, shall be kept on file in the office of the Director of Community and Mental Health Services. A copy shall be maintained by the Chief of Mental Health Services.
  - C. Polygraph examinations shall only be conducted under limited circumstances as outlined in Section I above.
  - D. Procedures for Examination
    1. Referral for Polygraph Examination: The Treatment Team may refer those youth who meet the following criteria:
      - a. Chronological age of fourteen (14) or older, and a minimum functioning of age equivalency of twelve (12) years. Standardized psychometric testing shall be employed when there is doubt about a youth’s level of functioning;
      - b. Capacity for abstract thinking;
      - c. Capacity for insight;
      - d. Capacity to understand right from wrong;
      - e. Ability to tell truth from lies;
      - f. Ability to anticipate rewards and consequences for behavior; and
      - g. Consistent orientation to date, time, and place.
    2. The polygraph examiner shall make the final recommendation of suitability for polygraph examination and shall not conduct the polygraph examination with youth when indicators exist that results would be invalid.
    3. The Treatment Team shall determine and document in case files the rationale for polygraph testing.
    4. The Treatment Team shall not refer youth when any of the following are present:
      - a. Diagnosis of psychotic thought disorder;
      - b. Lack of contact with reality;
      - c. Presence of acute pain or illness;
      - d. Presence of acute distress;

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- e. Recent medication changes;
- f. Mean age equivalency (“MAE”) or Standard Age Score (“SAS”) is below twelve (12) years (per standardized psychometric testing); or
- g. Any other indicator exists that results would be invalid.

- 5. No youth shall be referred without full, informed consent of the parent or legal guardian and the informed assent of the youth.
- 6. All referrals shall be reviewed and subject to approval by the Chief of Mental Health Services.

**E. Scheduling for Polygraph Examination**

- 1. The treatment provider shall contact the polygraph examiner to schedule the time and location for the examination.
- 2. The treatment provider shall maintain a log of all polygraph examinations including the youth’s name, Juvenile Service Worker, polygraph examiner conducting the examination, date and place of the examination, and results.

**F. Pre-examination Procedures with Youth**

- 1. The treatment provider shall explain the polygraph process and have the client complete the appropriate documents.
- 2. The polygraph examiner shall review the polygraph examination procedures with the youth.

**G. Attendance at Examination**

- 1. The treatment provider may attend polygraph examinations, but shall not be present in the examination room, unless directed to be in the room by the polygraph examiner. If the treatment provider is not present for the examination, the treatment provider shall be available for the polygraph examiner to contact during the examination if necessary.
- 2. A third party, including an attorney for the youth, shall not be in the examination room at the time of the polygraph examination.
  - a. The youth may consult with the attorney before the examination.
  - b. The youth may consult with the attorney upon completing the examination and before post-test interview by the

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polygraph examiner, which may include the treatment provider.

3. Even if the treatment team clears the youth for the examination, the polygraph examiner shall independently determine if the youth is suitable for an examination considering the youth's age, physical, mental, or emotional state.

#### H. Post-test Interview

1. Upon completion of the polygraph examination, the polygraph examiner may conduct a post-test interview of the youth.
2. The youth shall be informed of the results and may decline to participate in the post-test interview.
3. The treatment provider and the polygraph examiner may consult after the polygraph examiner's post-test interview.
4. The treatment provider may debrief the youth upon completion of the polygraph examination.

#### I. Disclosure of Victimization

1. A DJJ counselor shall be available during the polygraph examination in the event that a youth discloses sexual victimization during the course of the interview.
2. If the youth discloses sexual victimization, this shall be reported to DCBS per KRS 620.030 and the youth shall be provided all appropriate services to properly address the victimization.

#### J. Results of Polygraph Examination Process

##### 1. Team Consultation

- a. The polygraph examiner shall disclose all information that is discussed in the examination to the treatment provider and the Juvenile Service Worker.
- b. Results of the examination shall be logged into the youth's case file and the polygraph examination log.
- c. If no deceptions are indicated in the polygraph examination, the treatment provider shall record the results in the running record and polygraph examination log and notify the respective supervisors.

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- d. If the examination indicated deceptive results on any question, the treatment provider shall consult with the respective supervisors and the Juvenile Service Worker to determine the appropriate treatment strategies to be employed in response to the results of the examination.
2. The treatment provider shall record that a polygraph was completed and include any treatment recommendations in the running records.

#### **V. MONITORING MECHANISM**

Monitoring of this policy and corresponding standard operating procedures shall be conducted by the Chief of Mental Health Services, the Division Director of Community and Mental Health Services, and the Quality Assurance Branch on an annual basis.