

7.000

POLYGRAPH EXAMINATION OF JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES

7.100 The multidisciplinary team shall refer for polygraph examination those juveniles who meet the following criteria:

- A.** Chronological age of 14 or older, and a minimum functional age-equivalency of 12 years
 - 1.** Twelve (12) and thirteen (13) year olds may be referred for polygraph examination when the multidisciplinary team determines that the information and results would be clinically useful. There must be a determination of a minimum functional age-equivalency of 12 years, and the juvenile must meet other criteria for suitability for polygraph testing as defined in this Section.
 - 2.** Standardized psychometric testing shall be employed when there is doubt about a juvenile'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
- G.** Consistent orientation to date, time, place.

7.110 At the time of testing the polygraph examiner shall make the final determination of suitability for polygraph examination and shall not conduct polygraph examinations with juveniles when clear indicators exist that results would be invalid.

7.111 The multidisciplinary team shall determine and document in case files the rationale for and type of polygraph testing used, frequency of testing and the use of the results in treatment, behavioral monitoring and supervision.

7.120 The multidisciplinary team shall not refer juveniles for polygraph testing when any of the following are present:

- A.** Diagnosis of psychotic condition per the DSM IV-TR
- B.** Lack of contact with reality
- C.** DSM IV-TR Axis I severity specifier of "severe" for any diagnosis
- D.** DSM IV-TR Axis V Current – Global Assessment of Functioning score indicative of serious or profound functional difficulties (i.e., GAF score less than 50)
- E.** Presence of acute pain or illness
- F.** Presence of acute distress

- G. Recent medication changes**
- H. Mean Age Equivalency (MAE) or Standard Age Score (SAS) is below 12 years (per standardized psychometric testing)**
- I. Clear indicators exist that results would be invalid.**

- 7.121 Exceptions to the requirement to use polygraph testing shall be made by a majority of the multidisciplinary team in consultation with the polygraph examiner. The reasons for the exception shall be documented in the juvenile's file. If the exception(s) change, documentation is required regarding referral for or continued deferment from polygraph examination.**
- 7.130 No juvenile shall be referred for polygraph examination without the full, informed consent of the parent/legal guardian and the informed assent of the juvenile. The potential consequences of compliance or non-compliance with the procedure should be fully explained including legal consequences.**
- 7.140 Before commencing any polygraph examination with any juvenile who has committed a sexual offense, the polygraph examiner shall document that each juvenile, at each examination, has been provided a thorough explanation of the polygraph examination process and the potential relevance of the procedure to the juvenile's treatment and/or supervision. Review and documentation of informed assent will include information regarding the juvenile's right to terminate the examination at any time and to speak with his/her attorney if desired.**
- 7.150 As per standardized polygraph examination procedure, polygraph examiners shall be required to explain during the pre-test interview the polygraph instrumentation including causes of psychophysiological responses recorded during testing.**
- 7.160 Polygraph testing shall be used as an adjunct tool, it does not replace other forms of monitoring. Information and results obtained from polygraph examinations should never be used in isolation when making treatment or supervision decisions.**
- 7.161 Information and results obtained through polygraph examination shall be considered, but shall not become the sole basis for decisions regarding transition, progress, and completion of treatment. Polygraph test findings for juveniles should be reported as "significant reactions," "no significant reactions," or as "inconclusive." Such findings become a focus area for treatment and supervision. The findings of polygraph tests, as well as the juvenile's compliance or refusal to comply with request for polygraph testing, should not be used as the sole source in making treatment and supervision decisions.**
- 7.162 The multidisciplinary team shall respond to polygraph testing results in order to maintain the efficacy of the tool for maximum therapeutic benefit. Multidisciplinary team responses shall be in the form of sanctions, additional restrictions, rewards, or follow-up through the treatment and safety plans commensurate with the information obtained in the results.**

7.170 The following types of polygraph examinations shall be used with juveniles who have committed sexual offenses:

A. Sexual History polygraph examination:

- 1. The multidisciplinary team shall refer juveniles determined to be suitable for polygraph examination according to the criteria defined in Section 7.100 for sexual history polygraph examination. When employed, the sexual history polygraph examination should be initiated within 3-9 months following the onset of treatment to allow for sufficient preparation and follow-up on the information and results**
- 2. When necessary, the multidisciplinary team may accelerate or delay referral for sexual history polygraph examination, and the reasons for this decision must be documented in the juvenile's clinical and supervision records**
- 3. The multidisciplinary team shall assure that juveniles referred for sexual history polygraph examination possess sufficient understanding of laws and definition regarding abusive and/or illegal sexual behavior**
- 4. Test questions shall focus on issues that are clinically relevant to risk assessment, treatment issues and transition planning**
- 5. Care shall be given to minimize the focus on detail that may be sexually arousing**

B. Maintenance/monitoring polygraph examination:

- 1. The multidisciplinary team shall refer juveniles determined to be suitable for polygraph examination according to criteria defined in section 7.100 for maintenance/monitoring polygraph examination prior to transition to less restrictive placement settings in the community.**
- 2. When indicated in accordance with suitability criteria, the multidisciplinary team shall refer juveniles for maintenance/monitoring polygraph examination approximately 2-4 months prior to transition from one supervision level to another.**

Alternatively, the multidisciplinary team shall determine whether the juvenile may benefit more from participation in maintenance/monitoring polygraph examination 2-4 months following transition to a less restrictive setting, or may impose requirements for periodic maintenance polygraph examinations.

- 3. Test questions shall focus on issues that are clinically relevant to the assessment of safety and/or risk, compliance with the conditions of treatment and supervision and progress in treatment.**

C. Specific Issue polygraph examination:

1. The multidisciplinary team shall, at its discretion, refer juveniles determined to be suitable for polygraph examination according to criteria defined in Section 7.100 for specific issue polygraph examination.
2. Specific issue polygraph examination shall be employed under the following conditions:
 - a. Substantial denial of offense
 - b. Significant discrepancy between the account of the juvenile who committed a sexual offense and the victims description of the offense
 - c. To explore specific allegations or concerns
 - d. Prior to victim clarification per Section 8.000 of these Standards.

7.200 Polygraph examiners shall be listed with the Sex Offender Management Board. Polygraph examiners shall adhere to the following standards of practice when testing juveniles who have committed sexual offenses:

- A. Polygraph examiners shall employ a modern computerized or late model (1980's or later), electronically enhanced, polygraph instrument capable of simultaneously recording the individual's respiratory patterns, cardiovascular functions, electrodermal response, and metered chart/test time.
- B. Polygraph examiners shall employ a standardized comparison question technique that is generally accepted within the polygraph examination profession, in addition to a peak of tension and/or sensitivity/calibration test when appropriate.
- C. Polygraph examiners shall develop and review with the examinee, examination questions that are consistent with the examinee's level of maturity, development and understanding. Polygraph examination questions shall adhere to the following requirements:
 1. Be simple, direct and as short as possible
 2. Exclude legal terminology or treatment jargon that allow for rationalization
 3. Exclude mental state or motivation terminology
 4. Provide clear and simple meaning and interpretation
 5. Contain reference to only one issue
 6. Never presuppose knowledge on the part of the examiner
 7. Use language that is easily understood by the examinee (all terms should be fully reviewed and explained to the examinee)
 8. Be easily answered "yes" or "no"
 9. Use language that is behaviorally descriptive
 10. Avoid the use of any emotionally laden terminology.
- D. Each examination shall be a minimum of 90 minutes in length, beginning when the examinee enters the examination room and ending when the examinee departs after examination.

- E. Polygraph examiners shall record each examination in its entirety. While audio and video recording is preferable, audio recording alone will suffice when video recording is not practical.**
- F. Polygraph examiners shall submit a written report within two (2) weeks of the examination that will be factual and descriptive of the information and results of each examination. Written reports are intended for treatment and supervision purposes only, and shall be submitted to the supervising officer/agent, caseworker and treatment provider. Each report shall include information regarding:**
- 1. The date of examination**
 - 2. Beginning and ending time**
 - 3. Name of person requesting examination**
 - 4. Name of examinee**
 - 5. Birth date of examinee**
 - 6. Type of court supervision**
 - 7. Reason for examination**
 - 8. Date of last clinical polygraph examination**
 - 9. Examination questions and answers**
 - 10. Any additional information deemed pertinent by the examiner**
 - 11. Reasons for inability to complete the examination**
 - 12. Post-test phases of the examination**
 - 13. Test results.**
- G. Polygraph examiners shall score the examination data in accordance with physiological criterion that are generally accepted within the science of polygraphy as correlated with deception. In addition, a computerized scoring algorithm may be used, however the examiner must render the final decision with consideration for all the data obtained during the examination.**
- H. Polygraph examiners shall employ quality control processes as recommended by the American Polygraph Association and generally accepted practice within the polygraph profession.**