

**PLANNING, RESEARCH AND DEPLOYMENT
TRANSMITTAL OF WRITTEN DIRECTIVE**

FOR SIGNATURE OF: James E. Craig, Chief of Police

TYPE OF DIRECTIVE: Manual Directive 203.12

SUBJECT: POLYGRAPH EXAMINATIONS

ORIGINATED OR REQUESTED BY: Planning, Research and Deployment

APPROVALS OR COMMENTS:

1. This is the second submission for approval for this policy. The BOPC recommendations and responses from Planning, Research and Deployment are included in the attached package.
2. This updated draft policy has been reviewed and approved by Commander Tiffany Stewart and Lieutenant Robert Lalone of Major Crimes.

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BOARD OF POLICE COMMISSIONERS

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11/9/19

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PLANNING, RESEARCH AND DEPLOYMENT.
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Series 200 Operations	Effective Date	Review Date <i>Three Years</i>	Directive Number 203.12
Chapter 203 – Criminal Investigations			
Reviewing Office <i>Major Crimes</i>			<input type="checkbox"/> New Directive <input checked="" type="checkbox"/> Revised <small>Revisions in Italics</small>
References			

POLYGRAPH EXAMINATIONS

203.12 - 1 PURPOSE

The purpose of this policy is to provide members of this Department with general knowledge of, guidance, and procedures for the use of polygraph examinations.

203.12 - 2 POLICY

The polygraph examination is a valuable investigative aid when used in conjunction with, but not as a substitute for, a thorough investigation. The polygraph may be employed, consistent with this policy for the following:

- a. *Verify, corroborate, or refute statements;*
- b. *Obtain additional investigative leads; and*
- c. *Narrow or focus criminal investigations, among other authorized purposes.*

203.12 - 3 Definition

Polygraph -- An instrument that records certain physiological changes in a person undergoing questioning in an effort to determine truth or deception. A polygraph simultaneously records a minimum of respiratory activity, electrodermal response, and cardiovascular activity.

203.12 - 4 Procedure

203.12 - 4.1 Requesting Polygraph Examinations

1. *Following approval by their immediate supervisor, members may request a polygraph examination from a Department-authorized polygraph examiner.*
2. *Polygraph examinations may be authorized when consistent with state law and Department policies and procedures. Situations in which polygraphs may be utilized include, but may not be limited to, the following:*
 - a. *Requests from the office of the prosecutor or for other investigative purposes;*
 - b. *Requests from other authorized criminal justice agencies;*
 - c. *Attempts to verify or reconcile statements made by witnesses or other individuals when alternative investigative means have been exhausted;*

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- d. *Efforts to confirm or refute an allegation(s) that cannot be verified or disproved by other evidence; or*
 - e. *Efforts to assess the credibility of informants in preparation for a tactical operation or a search warrant.*
3. *The polygraph shall not be used to verify a victim's allegation without sufficient grounds for suspecting that the victim has given false or misleading statements.*
 4. *The Detroit Police Department is under no obligation to conduct a polygraph examination for any individual. If an attorney requests, in writing, that a polygraph examination be administered to a client, it is within the authority of the investigating member (officer in charge of the case) and the commanding officer to deny or grant the request, except in the case of a court ordered polygraph examination.*

203.12 - 4.2 Arranging an Examination

1. *Polygraph examinations are voluntary, and when an investigating member believes an examination might be beneficial to a case, the written consent of the subject, or the subject's attorney, to submit to the examination must be obtained.*
2. *If the subject is willing to take the examination, the member shall complete a Polygraph Examination Request Form (found on the Department Intranet Forms page) and email the completed form to polygraph_work_request@detroitmi.gov. If an examination must be canceled for any reason, an email should be sent immediately to polygraph_work_request@detroitmi.gov so that the time may be made available to others wishing to schedule an appointment.*
3. *In sex crimes cases, members are cautioned that Michigan law prohibits law enforcement officers from requesting or ordering a victim to submit to a polygraph examination. A victim may be informed of the option of taking a polygraph examination if the victim inquires concerning such a test.*
4. *If the subject is hearing impaired or does not speak English, the member will help make arrangements for a sign language interpreter or translator as determined by the polygraph examiner.*
5. *Members may not interrogate a subject immediately before they undergo a polygraph examination.*
6. *In any interrogation of a suspect who has agreed or who may reasonably be asked to agree to a polygraph, members shall not pursue questions that may reveal information only the perpetrator could know. This includes, but is not limited to, the following:*
 - a. *Method of entry;*
 - b. *Property taken;*
 - c. *Weapons or type of force used to commit the crime;*
 - d. *Evidence left at the scene;*
 - e. *Clothing worn by the subject during the crime;*
 - f. *Unusual acts of the suspect during the crime; or*
 - g. *Location from which property was taken.*

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7. *It is the role of the polygraph examiner, not the investigating member, to explain procedures that will be used in the examination. However, members may advise subjects of the following:*
 - a. *The examination is voluntary;*
 - b. *Results of the examination are not admissible in a court of law unless all parties agree in advance; and*
 - c. *Results of the polygraph examination, taken alone, do not provide substantiation for a criminal charge.*
8. *The requesting member, or a members thoroughly familiar with the case, shall report with the subject and monitor the entire examination.*
9. *Other authorized persons such as attorneys, parents, or legal guardians for the examinee may remain on hand until completion of the test. The polygraph examiner shall be solely responsible for authorizing any persons inside the examination or observation rooms.*
10. *If the subject is a juvenile, approval must be obtained from the juvenile's parents or legal guardian unless the juvenile is a ward of the Probate Court. In all cases involving juveniles who are defendants, consent for a test must be obtained from the Probate Court. The investigating entity will handle the court approval procedure and the appointment for the polygraph examination.*

203.12 - 4.3 Request by the Judge or Prosecutor

Once a defendant has been arraigned in court, a polygraph examination will be administered only upon request by the judge having jurisdiction in the case, and with the consent of the subject. In some cases, the prosecutor may request a polygraph examination. In such cases, the name of the prosecutor or assistant prosecutor must be noted on all related documents.

203.12 - 5 Responsibilities of the Investigating Member

1. *Often, the success of any polygraph examination will depend upon the professional capabilities of the investigating member. If the case has not been investigated properly, the polygraph examination may not contribute to the successful conclusion of the investigation. The investigating member must base the investigation upon evidence secured through skill and technique, rather than any expected self-disclosure induced by the polygraph examination.*
2. *During an investigation in which the polygraph might be used, the investigator shall not resort to misleading statements. If the person who determines that they were deceived later takes a polygraph examination, they may be overly suspicious of the procedure and the polygraph examiner.*
3. *The investigating member must be able to brief the examiner on the minute details of the investigation. General facts, theories, and suspicions are not enough; the*

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examiner must have detailed, verified facts. The *investigating member* should make the record of the person and all statements, documents, and evidence concerning the investigation available to the examiner. Some of the information the examiner must have includes the following:

- a. Information obtained in the investigation that supports and justifies the use of the polygraph;
 - b. Copies of crime/offense reports and investigative reports;
 - c. Evidence available and withheld from the subject;
 - d. Background information on the subject to be examined, to include criminal record and possible motivation;
 - e. Any statements made by the subject, complainants, and witnesses to include alibis;
 - f. Newspaper articles or other general information concerning the case;
 - g. Specific articles or exact amounts of money stolen;
 - h. Exact time offense occurred;
 - i. Aspects of the offense or any strange or obscene act committed at the scene;
 - j. Known facts about a suspect's actions or movements;
 - k. Facts indicating a connection between suspects, victims, and witnesses, especially when they deny any connection;
 - l. Exact type of weapon; or
 - m. Results of laboratory tests.
4. Whenever possible, the *investigating member* should withhold at least three (3) items of the case information from the suspect and news reporters which could be known only to the victim or the offender. Such information might include:
- a. Type of weapon used;
 - b. Gun caliber;
 - c. Method of entry;
 - d. Exact amount of money stolen; or
 - e. Words the subject used at the crime scene.
5. The withheld information will enable the examiner to construct specific tests which may provide an accurate reaction and significant results.
6. If the subject is a police prisoner, the *investigating member* (officer in charge of the case) is at all times responsible for that prisoner. The member who actually worked on the case should present case facts to the polygraph examiner, as they would be more familiar with all details of the case.
7. When requesting a subject to submit to a polygraph examination, the *investigating member* shall inform the subject that participation in the polygraph examination is voluntary. The polygraph examiner shall have the examinee sign a consent form.

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8. *If the subject exhibits fear of the test procedure, the investigating member shall assure the subject that the polygraph examiner will thoroughly explain the procedure before the polygraph examination.*

203.12 - 6 Conducting the Examination

1. *Only fully trained polygraph examiners or intern polygraph examiners under their direction are authorized to administer polygraph examinations.*
2. *During the examination, the polygraph examiner is the only person allowed in the polygraph room with the subject. The areas to be covered in the polygraph examination, the wording of the test questions, and the conduct of the entire examination are the sole responsibility of the polygraph examiner. Generally, only one (1) crime will be covered during any examination. If more than one (1) crime needs to be covered, the investigating member may schedule an additional examination at a later date.*
3. *An examiner shall not conduct a polygraph examination upon a subject if it is felt for any reason that an unbiased examination cannot be given.*
4. *The examination shall cease immediately if requested by the subject.*
5. *The polygraph examiner may terminate any exam if the subject is engaged in any activity indicating purposeful non-cooperation.*
6. *Prior to the test, the examiner shall thoroughly explain the polygraph procedure to the subject and prepare them for the examination.*
7. *The examiner shall be responsible for preparing all questions used in the examination. Prior to the examination, each test question shall be reviewed with the person being tested.*
8. *The examiner will conduct a comprehensive pre-test interview of the examinee concerning the case.*
9. *If during the examination the subject makes an oral admission or confession, the polygraph examiner shall obtain a written admission or confession after completion of the examination. If an admission or confession is made outside of the polygraph examination, the officer in charge shall follow procedures set forth in regards to admissions and confessions and reduce it to writing. For cases involving capital offenses, the admissions shall be recorded as mandated by state law.*
10. *After the examination, the polygraph examiner will:*
 - a. *Discuss the results of the examination with the investigating member,*
 - b. *Interpret the chart tracings and render an opinion on the findings using one of the following conclusions:*
 - *No Deception Indicated*
 - *Deception Indicated*
 - *Inconclusive*

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c. *Submit a typed polygraph report to the investigating member within seven (7) days of the polygraph examination.*

11. *The polygraph examiner shall determine if a second polygraph examination is necessary and appropriate.*

203.12 - 6.1 Physical and Mental Condition of the Subject

1. *The physical and mental condition of a subject can and often does affect a polygraph examination. There shall be no interrogation of a subject immediately prior to a polygraph examination. The subject should be in their "normal" state. Persons under a doctor's care for heart disease or nervous disorders may be poor subjects for polygraph examinations. All questions regarding such situations should be directed to the polygraph examiner because the fact that person is suffering from a physical or mental disorder does not automatically disqualify them as a suitable subject.*
2. *The polygraph examiner shall make such inquiries regarding the subject's health, medical history, and use of medications as necessary to determine their ability to take the examination. Polygraph examinations shall not be conducted on any person whom the examiner reasonably believes to be physically or emotionally unsuitable for testing. This may include, but is not limited to, persons with heart conditions, women who are pregnant, and individuals taking certain types of medication that may interfere with test results. When in doubt, the examiner may seek guidance from medical or psychological professionals as authorized by this Department or request the examinee to obtain a medical certificate from an appropriate health care provider.*
3. *The polygraph examiner has the sole authority to decide at any time whether or not a particular examination should be started or, if once started, whether it should continue.*
4. *Persons who have recently suffered an emotional strain such as a homicide in the family or some other traumatic experience may not be suitable subjects for polygraph testing. Investigating members should observe the condition of all potential subjects and advise the examiner of any irregularities.*
5. *Persons addicted to stimulant or depressant drugs may be tested under certain circumstances. Generally, persons under the influence of alcohol or narcotics at the time of testing will be poor polygraph subjects. Any information relative to the use of drugs by a potential subject should be relayed to the examiner.*

203.12 - 6.2 Discussing Results of the Examination

When a test has been conducted, it is the responsibility of the polygraph examiner to apprise the subject of the test results; however, the results shall not be made public, nor given to any complainant.

203.12 - 6.3 Retention

Unless as otherwise provided in this policy or by state law, the polygraph examiner shall maintain copies of each polygraph report, together with polygraph charts, and all associated paper, for a period of five (5) years and indefinitely in capital offenses.

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203.12 - 7 Internal Departmental Investigations

Members who are the subject of an internal Departmental investigation may request, *in writing*, that they be given a polygraph examination. Under no circumstances shall such examination be conducted by a member of the Detroit Police Department.