

Policy 3.50– Using the Polygraph in YSO Treatment Summary

- Establishes policy regarding the use of the polygraph for YSO-specific treatment

Background:

In March of 2020, a global pandemic called COVID-19 was declared. JR leadership decided to minimize the number of policy changes so JR staff could focus on the many additional ways they need to protect and support the JR youth and young adults in our care.

The existing policy did not undergo the typical sunset review, but rather was extended until the spring.

Policy Summary

The policy addresses the situations in which polygraph testing can be used for treatment of YSOs. It requires appointing authority approval for polygraph tests, and ensures results of the polygraph are used to determine treatment needs. The policy requires notification about the lack of confidentiality of polygraph results, and sets the expectation that decisions regarding placement, risk assessment, treatment or parole revocation must not be based solely on the results of the polygraph test. Disclosure of physical or sexual abuse or neglect, other criminal or illegal activity, or violations of parole will be addressed as appropriate in accordance with JR policy. In accordance with PREA Standards, JR must not require youth or young adults alleging sexual abuse to submit to a polygraph examination as a condition for proceeding with the investigation of the allegation.

Changes from Current Practice

- There are no changes to current practice
- The policy sunset review date is extended to June 1, 2021

Training Required: No

Policy Effective Date: August 11, 2016

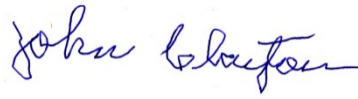
*Staff are responsible for reading and understanding the information contained in the full policy.
Review of this summary is not sufficient for full understanding.*

POLICY 3.50 USING THE POLYGRAPH IN YSO TREATMENT

Policy Committee Chair

Lori Kesi
Regional Administrator, Regions 1 & 2
Juvenile Rehabilitation

Approved



John Clayton, Assistant Secretary
Juvenile Rehabilitation
10/14/2016

Authorizing Sources

RCW 13.40.210
RCW 26.44.030
RCW 26.44.040
28 CFR Part 115 PREA Juvenile Facility
Standards

Information Contact

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Effective Date (*Technical Edit 1/21/2021*)¹
11/1/2016

Sunset Review Date
6/1/2021

I. PURPOSE AND SCOPE

This policy is to establish expectations for the use of polygraph examinations with Juvenile Rehabilitation (JR) youth and young adults ²(referred to as “youth” throughout policy) adjudicated with a sexual offense.

All staff, contractors, volunteers, and interns working in or for JR are responsible for reviewing and complying with JR policies.

II. POLICY

- 1. Polygraph examinations may be used with youth who sexually offended and involved in treatment for sexually abusive behaviors related to their offense.**
- 2. A Superintendent, Regional Administrator or designee must approve each polygraph assessment, ensuring the following criteria are met:**
 - 2.1. Polygraph assessments must be used only as a treatment tool to help identify a youth’s sexual offense history and to help monitor and supervise the youth’s day-to-day behavior specific to his or her treatment plan related to the youth’s sex offense.

¹ 12/12/19 Technical Edit: Updated DSHS references and forms to DCYF.

² 9/17/2020 Technical Edit: Added “young adults” clarifying the policy covers JR individuals ages 18+.

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- 2.2. The results of polygraph examinations (non-deceptive, deceptive or inconclusive) must only be used for determining treatment needs, and must only be considered within the context of other relevant assessment data such as clinical interviews, assessment questionnaires, and psychosexual evaluations.
- 2.3. If the examination involves a youth with a sex offense from a prior adjudication or conviction, the Superintendent, Regional Administrator or designee will consult with the Youthful Sex Offender (YSO) Program Administrator to determine approval for the exam.
- 3. Youth will be notified in writing of the lack of confidentiality of information disclosed as a part of a polygraph examination.**
 - 3.1. Notification will occur during the diagnostic process using the Notification and Legal Requirements form (DCYF Form 20-236).
 - 3.2. Service providers conducting polygraph examinations may be required to inform the youth of the limitations of confidentiality (as a part of their certification requirements). To facilitate the use of a consistent form, JR will provide the examiners with the appropriate Polygraph Notification (DCYF Form 20-253).
- 4. Placement decisions, assessment of risk, treatment progress, and parole revocation decisions must not be based solely on the reports of polygraph examinations.**
 - 4.1. Relevant clinical data, including daily behavior, treatment progress and risk factors must be considered when establishing release dates, requesting parole revocations, or making other decisions relevant to a youth's placement or treatment program.
 - 4.2. When a youth has signed a treatment or parole contract that includes an agreement to participate in polygraph examinations, a subsequent refusal to take a polygraph examination may be considered a treatment or parole violation.
 - 4.3. A youth's refusal to submit to a polygraph examination, along with other treatment factors, may be considered in subsequent decisions regarding treatment, placement, the setting of release dates and parole revocations.
 - 4.4. A polygraph refusal must not be the sole factor in subsequent decisions regarding treatment, placement, the setting of release dates and parole revocations.
- 5. Verbal disclosures or admissions made before, during or after a polygraph examination may be used for any purpose consistent with custody, supervision, treatment, or community protection.**
 - 5.1. Contracted polygraphers will report disclosures to JR staff immediately following the examination.
- 6. Youth disclosure of physical or sexual abuse or neglect, other criminal or illegal activity, or violations of parole will be addressed as appropriate in accordance with Policy 1.30, Reporting Serious and Emergent Incidents, Policy 5.91, Reporting Abuse and Neglect of JR Youth, and Parole Standard 4, Using Graduated Responses.**
 - 6.1. Previously unreported cases of violent crimes as defined by RCW 9.94A.030(56) must be reported to law enforcement consistent with Policy 1.30, *Reporting Serious and Emergent Incidents*.

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- 6.2. Any allegation of previously unreported physical, sexual or other abuse or neglect will be reported to child protective services or adult protective services in accordance with Policy 5.91, *Reporting Abuse or Neglect of JR Youth*, and DCYF AP 2.01, *Child Abuse Reporting*.
- 6.3. Any other crimes or illegal activity not covered by section 5.1 may be reported to law enforcement at the discretion of JR staff.
 - 6.3.1. Criteria to use in determining whether or not reporting is required includes, but is not limited to, the seriousness of the crime, how recently the crime occurred, and the truthfulness or reliability of the person making the disclosure.
- 6.4. Staff will notify their supervisor of disclosures under this section and document in ACT.
7. **JR must not require youth alleging sexual abuse to submit to a polygraph examination as a condition for proceeding with the investigation of the allegation. (PREA Standard 115.371 (f))**
8. **Written reports of polygraph examinations, and the accompanying consent forms, must be placed in the youth's file consistent with Policy 2.40, *Managing Youth Case Files*.**
9. **Exceptions to this policy require written approval from the Assistant Secretary.**

III. DEFINITIONS

Polygraph: An instrument which measures an examinee's physiological responses while answering specific questions, the results of which can be utilized to assess a person's truthfulness or deceptiveness to specific questions.

Polygrapher: An individual providing polygraph examinations who is a graduate of an accredited polygraph course, or is an approved intern, and has the appropriate license, registration, or certification as required by law and DSHS policy.

Polygraph Report: A written report submitted by a polygrapher that summarizes his or her interpretation of an examinee's truthfulness or deceptiveness in answering specific relevant questions. The report may also include the specific questions that an examinee was asked and the examinee's responses to those questions.

Polygraph Results³: Measured physiological responses recorded by a polygraph.

Youth who Sexually Offended (YSO)⁴: Youth committed to JR whose current term of incarceration includes a sex offense defined under RCW 9.94A.030 or who has a criminal history of a prior sex offense.

³ 1/1/2021 Technical Edit: Added "Polygraph" to term Results for clarity.

⁴ 1/1/2021 Technical Edit: Updated definition to align across JR policies.

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IV. REFERENCES

Association for the Treatment of Sexual Abusers

V. RELATED JR POLICIES

Policy 2.40 – Managing Youth Case Files	Policy 5.90 – Applying PREA Juvenile Standards in JR
Policy 4.30 – Providing Health Care for JR Youth	Policy 5.91 – Reporting Abuse or Neglect of JR Youth

VI. FORMS AND DOCUMENTS

Document Title	In ACT?	Link to Form
Notification of Legal Requirements		DCYF Form 20-236
Polygraph Notification		DCYF Form 20-253
