

Practical Polygraph: Authorization and Release Form

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Upon entry into the examination room, following the initial greeting, introduction, and reasonable verification of the examinee's identity, the onset of any polygraph occurs with the review and execution of the *Authorization and Release Form*. The authorization and release process involves more than simply obtaining the examinee signature on a required form. When used correctly, the authorization and release process will serve to document that the examinee has been provided accurate information about the forthcoming examination. An example *Authorization and Release Form* is shown as Appendix A. The *Authorization and Release Form* should start by capturing the following information:

- Name or identity of the examinee
- Examinee date of birth and age
- Examinee residence or mailing address
- Examinee phone contact information or email
- Date of the examination
- Start time of examination (time of execution of the *Authorization and Release Form*)
- Examiner name
- Exam location

Some examinees can be requested to complete the header/ID section of the *Authorization and Release Form* upon entering the examination room. It is also possible to provide the examinee with the *Authorization and Release Form* prior to entering the examination room. It may also be acceptable to provide a copy of the *Authorization and Release Form* to the examinee in advance of the scheduled examination.

Although documentation of information is a primary objective when completing this form, there are other secondary benefits that can also be achieved in the authorization and release process. For example: examinees with literacy problems, persons with serious intellectual disability or psychiatric disorganization, and others that may have difficulty completing the form without substantial assistance may be more easily identified as requiring assistance and careful consideration. The authorization process can help to identify those who are either unsuitable or marginally suitable for polygraph testing, depending on the degree of disability. Also, persons with medical or mental health problems will have an opportunity to provide information and request information about the effects that these may have on the polygraph examination.

In addition to the identification and header section, the *Authorization and Release Form* should document that correct information has been provided to the examinee about how the examination is to be conducted and the examinee's rights during testing. Following is a suggested list of information

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content items that can be provided to the examinee during the completion of the *Authorization and Release Form*:

1. *A statement of willing agreement to complete the examination, along with a statement of understanding that the examination may be terminated at any time.*

This statement pertains only to agreement regarding the completion of the referral for examination and does not attempt to engage in complex legal discussion about voluntariness, and so avoids discussion about duress. Examinees should not be subject to polygraph testing if they express their choice not to be tested. Provision of information that the examination can be terminated at any time will serve to document that the examinee is fully aware that completing the polygraph examination is a personal choice. Also, of course, the examination should be terminated and the examinee should not be detained at any time an examinee has expressed a desire to stop or leave. Of course, law-enforcement examiners who conduct custodial examinations will have other requirements for advisement pertaining to the rights of persons who are being detained.

2. *An acknowledgment that the examination will be conducted without any promises or prior agreement about the outcome or test result.*

This statement should clearly explain that the examiner will evaluate the information and test results and render an opinion about deception or truth-telling following the completion of the examination.

3. *A statement attesting to the examinee's adequate physical and mental health at the time of the examination.*

Examinees should not be tested if they are unsuitable for polygraph testing due to physical or mental health reasons. Examiners may need to exercise some discretion and judgement when evaluating the suitability for polygraph testing of persons with chronic or ongoing mental or physical health problems. A good practice is to notate, on the *Authorization and Release Form* and in the examination report, all information, statements, questions and details that an examinee may express about his or her mental or physical health issues regardless of whether they affect the examination. All examiners must be cognizant of the legal context in which they work, and should forgo the review and discussion of this information when they are prohibited from doing so.

4. *A statement acknowledging the examination will consist of both interview/discussion and test data recording phases, and that the instrumentation and physiological recording sensors will be explained in satisfactory detail prior to their placement or attachment and prior to commencing any recording of physiological activity.*

Examinees should be informed, prior to the execution of the *Authorization and Release Form*, that the examination consists of both interview/discussion and test data recording phases. This information should include an explanation of the location and attachment of each physiological recording sensor. Examiners should convey that all sensors are non-invasive, are placed externally, and are not harmful to the examinee. Sensors that may cause some minimal discomfort (e.g., cardio) can be discussed factually at this time. More detailed information can be provided to the satisfaction of the examinee or in response to questions or inquiry. It is

important that examinees are provided accurate and satisfactory information about the examination proceedings and instrumentation prior to the commencing the interview/discussion and test data recording phases and prior to the execution of the *Authorization and Release Form*.

5. *A statement acknowledging that all test questions will be reviewed prior to the recording of any physiological responses, and that the examinee will be advised of the onset and completion of all physiological recordings.*

This statement should also clarify that the examinee will have an opportunity to clarify any information prior to the recording of any physiological responses to the test stimulus questions.

6. *A statement acknowledging that the examination data may be reviewed anonymously for quality assurance and professional development – not involving experimental activities that will have any effect on the examination outcome or reason for referral for testing.*

Examinees should not be subject to experimental processes without their informed consent, and should be assured of their privacy confidentiality – including when professionals engage in required quality assurance and professional development activities.

7. *A statement indicating that the examination will be audio/video recorded including the interview and recording phases.*

Examinees should be advised that the audio/video recording are subject to the same requirements and restrictions as all other data and information from the examination.

8. *A statement that names or identifies those professional persons or agencies who are authorized to receive the information and results from the examination.*

Examinees should be advised that all information and examination results will be provided to the referring professionals. Examinees should also be advised that information and results will not be released to persons not named on the *Authorization and Release Form* or other professionals except as required by law.

9. *A statement indicating whether the examination and results are (or are not) privileged and confidential (i.e., attorney work product).*

Examinations conducted under referral from an attorney may be considered attorney work product and may therefore be privileged and confidential. All examinations not referred by an attorney are subject to normal legal requirements for professional confidentiality and disclosure of information.

10. *A statement indicating whether recipients of information from the examination are (or are not) legally mandated reporters in cases of known or suspected abuse of a child or other vulnerable persons.*

Many referring professionals are legally mandated to report all known or suspected abuse of children or vulnerable persons to proper authorities (attorneys and private investigators may be an exception to this). Polygraph examiners are sometimes not legally mandated reporters

themselves, though this may vary for each jurisdiction. All examiners should be cognizant of their local laws and regulatory requirements.

11. *A statement indicating the date of expiration of the authorization for release of information to the named professionals or agencies.*

Examinees should be advised of the date of expiration of the *Authorization and Release Form*, after which information will not be released without further authorization.

12. *A statement releasing the polygraph examiner and all professional affiliates from harm, liability and damages related to the completion of the examination.*

This language can become legalistic sounding, and examiners should be prepared to briefly and clearly explain this statement if necessary. Minimally, it should be clearly explained to the examinee that execution of the *Authorization and Release Form*, and completion of the examination, requires that examiners remain objective and unencumbered by any other liabilities and concerns.

A useful practice is to define all locations on the *Authorization and Release Form* where the examinee can be requested to initial each of the information content items. Thorough procedures will involve assisting the examinee in reviewing each content item. This should include reading or paraphrasing the item verbally for the examinee, and inviting questions or verbal confirmation of understanding. Each content item should be reviewed and initialed before proceeding to the next item. Initialing each item does not constitute the examinee's assent or the execution of the *Authorization and Release Form*, and signifies only that the content items were read, reviewed and explained to the examinee's satisfaction and understanding. In this way, examinees will be less likely to execute the *Authorization and Release Form* without actually reading and comprehending its content. Professionals who neglect or shortcut this process may be at risk for adverse experience if an examinee can successfully argue he or she has signed an authorization form for which the content was not correctly understood.

Many polygraph examinees lack accurate information about the polygraph test, and some may approach the examination with misinformation. Even more important than the *Authorization and Release Form* itself is the authorization and release process. Use of a well-developed *Authorization and Release Form* can help to ensure an effective process in which each polygraph examinee has been provided accurate and complete information. This information should include the instrumentation, recording sensors, examination procedures, use of audio/video recording, and the referral context under which the examination will be completed. The authorization and release process should indicate to whom the examination information and results will be made available.

Execution of the *Authorization and Release Form* requires the examinee's signature – or the examinee's recorded verbal confirmation if the authorization is done via audio/video recording. It may be good practice to audio/video record the entire authorization and release process even when completed in written form. The executed form *Authorization and Release Form* may also include a location for a witness signature for a parent or guardian when testing minors. The examiner may witness the execution of the form if no others are present – which is most often the case, as polygraph examinations must be completed in a manner that is free of distractions. The examination – including substantive discussion of the matter under investigation, discussion of test questions or any physiological recordings – should not and cannot occur until after the execution of the *Authorization and Release Form*.

The *Authorization and Release Form* can be completed via paper documentation or via electronic document form. It is also possible to complete the process verbally with the details documented via audio/video recording. Regardless of how the process is completed and recorded, use of a well-developed *Authorization and Release Form* can help to expedite the authorization and release process and may help to avert potential problems that can result from misunderstanding or incomplete information during the onset of a polygraph examination.

Following the completion of the examination and posttest review, the *Authorization and Release Form* can be used to formalize and document the completion of the examination. A good practice, when used in this manner, is to have the examinee write the time of completion on the *Authorization and Release Form*. The completed form should include a statement reaffirming that the examination was completed without promise of reward or outcome, that all test questions were reviewed and understood and the that examinee was aware that the examination could be terminated at any time. The examinee should be requested to initial this reaffirmation upon reading it. It is good practice is to always read or paraphrase the information for the examinee, prior to requesting the examinee initial the posttest information and reaffirmation. The examinee can be directed to exit the examination room and the audio/video recording should be stopped following the signature and execution of the posttest section of the *Authorization and Release Form*.

Effective use of the *Authorization and Release Form* can help to expedite the examination process and may help to avoid potential problems that can result from misunderstanding or incomplete documentation. A well-developed *Authorization and Release Form* will served to document that examinees have been correctly informed about the conduct of a competent and professional polygraph examination. Information should correctly describe the testing process, (i.e., what will be done during testing – including the placement or attachment of the recording sensors) and how the process may affect the examinee during the examination. Information should also indicate who will receive information from the examination. It is important that the information provided to the examinee is factual and correct. When it is done with skill and expertise, the authorization and release process may also help to establish an effective rapport – wherein detailed information can be discussed in a context of dignity and respect despite the asymmetrical roles of examiner and examinee.

Appendix A.

POLYGRAPH AUTHORIZATION AND RELEASE FORM

Name: _____ Date: _____ Time: _____

My Address is: _____

City: _____ State: _____ Zip/Postal Code: _____

Daytime Phone: _____ Evening Phone: _____

Driver's License / State ID: _____ Date of Birth: _____ Age: _____

Polygraph Examiner: _____

Exam Location: _____

1. _____ I do hereby authorize the above named professional, who is a qualified polygraph examiner, to administer a polygraph examination to me on the date indicated above. I understand that I may cancel the examination process at any time. I further understand that I will not be detained to complete the examination or interview if I wish to stop.
2. _____ I am agreeing to take this examination, without any promise of reward, including promises of favorable test outcomes. I understand that the expert opinion of the examiner will be based upon on the polygraph test data as to whether I have been truthful or deceptive during the examination.
3. _____ I am in adequate (stable) physical and mental health to complete this examination.
4. _____ I understand that the examination equipment and physiological principles will be explained to my satisfaction before beginning the examination. I further understand that the examination will consist of both interview/discussion and test data recording phases, during which test questions may be repeated multiple times.
5. _____ I understand that all test questions will be read and reviewed with me before beginning the examination. I further understand that I will have an opportunity to ask for clarification before recording my physiological responses to the test questions. I understand that I will be advised when the recording of my physiological responses has begun and ended.
6. _____ I understand that information from this examination may be reviewed or in anonymous or aggregated form by other professionals for purposes of quality assurance and professional development. I further understand that this does not involve experimental activities that may affect the outcome of this exam or the reason for referral for this examination.
7. _____ Examination Recording (circle): Audio YES NO Video YES NO
8. _____ I authorize the release of the results and information from this examination, both verbally, in writing, and electronically. I further understand that the information can included included the examination content, video/audio taped interviews, and examination results, in addition to a written summary report. Information will be released to:

9. _____ Information from this examination ARE / ARE NOT (circle) privileged and confidential attorney work product.
10. _____ Recipients of this information ARE / ARE NOT (circle) mandated to report known or suspected cases of child abuse or abuse of other vulnerable persons.
11. _____ This authorization for release of the above listed information expires (365 days maximum): _____
12. _____ I myself, including my family members, heirs, and executors, hereby release and forever discharge from all harm, liability, or damage whatsoever, the above named examiner, including any named or un-named associates and affiliates, including any officers, agents, employees, employers, and associates from all suits, actions of law or claims resulting from this examination.

Signature of Examinee

Date

Witnessed

The portion below is to be completed at the end of the examination.

_____ This examination was concluded at _____. In signing this portion I completely reaffirm in its entirety my above agreement that I understood the test questions and completed the examination of my own accord, without promises of reward or particular test outcome, knowing that I could stop at any time or consult with an attorney or any other person.

Signature of Examinee

Date

Witnessed