



NATIONAL SECURITY AGENCY  
CENTRAL SECURITY SERVICE  
FORT GEORGE G. MEADE, MARYLAND 20755-6000

FOIA Cases: 64010A  
64011A  
11 October 2016

KATHRYN SACK  
111 DAVID TERRACE  
CHARLOTTESVILLE VA 22903

Dear Ms. Sack:

This is an interim response to your Freedom of Information Act (FOIA) requests of 13 February 2011, for the following:

1. 64010 – “All records maintained by your security office regarding the applicability of equal employment opportunity rules to the security clearance and employment suitability processes; all records maintained by your EEO office regarding polygraphs; all records maintained by your EEO office regarding security clearance or employment suitability determinations; and, all records maintained by your security office regarding restrictions on the use of polygraphs.”
2. 64011 – “All records maintained by your security office representing aggregate data of polygraph examinations.”

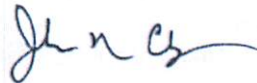
As stated in our original letter to you, dated 11 March 2011, your requests have been assigned Case Numbers 64010 and 64011. This letter indicates that we have begun to process your request. The complexity of the material responsive to your request requires review prior to release and has been placed in the first-in, first-out processing litigation review queue. We have completed our review of five (5) documents responsive to your request. Department of Defense Directive 5210.48 and Department of Defense Instruction 5210.91 are enclosed herewith, provided in their entirety.

Also enclosed is NSA/CSS Policy 5-17. Certain information has been redacted from this policy pursuant to Section 6, Public Law 86-36 (50 U.S. Code 3605), which authorizes the Agency to protect certain information concerning its activities. We have determined that such information exists in this document. Accordingly, those portions are exempt from disclosure pursuant to the third exemption of the FOIA, which provides for the withholding of information specifically protected from disclosure by statute.

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In addition, two documents (18 pages) have been withheld in their entirety pursuant to Section 6, Public Law 86-36 (50 U.S. Code 3605), which authorizes the Agency to protect certain information concerning its activities. Accordingly, these documents are exempt from disclosure pursuant to the third exemption of the FOIA, which provides for the withholding of information specifically protected from disclosure by statute. Further, some of the withheld information has been found to be currently and properly classified in accordance with Executive Order 13526. The information meets the criteria for classification as set forth in Subparagraph (c) of Section 1.4 and remains classified CONFIDENTIAL as provided in Section 1.2 of Executive Order 13526. The information is classified because its disclosure could reasonably be expected to cause damage to the national security. Because the information is currently and properly classified, it is exempt from disclosure pursuant to the first exemption of the FOIA (5 U.S.C. Section 552(b)(1)).

Sincerely,



JOHN R. CHAPMAN  
Chief  
FOIA/PA Office

Encls:  
a/s



NATIONAL SECURITY AGENCY  
CENTRAL SECURITY SERVICE  
NSA/CSS POLICY 5-17



Issue Date: 20 October 2015  
Revised:

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(U) POLYGRAPH EXAMINATIONS AND EXAMINERS

(U) PURPOSE AND SCOPE

(U) This policy establishes conditions under which polygraph examinations are conducted by NSA/CSS; requirements for the selection, training, and supervision of NSA/CSS polygraph examiners; procedures for the procurement, testing, and storage of NSA/CSS polygraph equipment; and for the retention and dissemination of polygraph results, reports, and related records. This policy applies to all NSA/CSS *affiliates*.

L. KEMP ENSOR III  
Associate Director  
for  
Security and Counterintelligence

Endorsed by  
Associate Director for Policy

Encls:

- (U) Annex A – Advisement to Polygraph Examinees
- (U) Annex B – Records/Administration of Polygraph Examinations and Related Material
- (U) Annex C – Conduct of Examinations
- (U) Annex D – Selection, Training, and Supervision of NSA/CSS Polygraph Examiners

DISTRIBUTION:

Q  
DJI

Approved for Release by NSA on 10-11-2016.  
FOIA Litigation # 64010

(U) This Policy 5-17 supersedes NSA/CSS Policy 5-17, dated 16 June 2009.  
(U) OPI: Associate Directorate for Security and Counterintelligence, 968-6006s.  
(U) No section of this document shall be released without approval from the Office of Corporate Policy (DJ1).

(U) POLICY

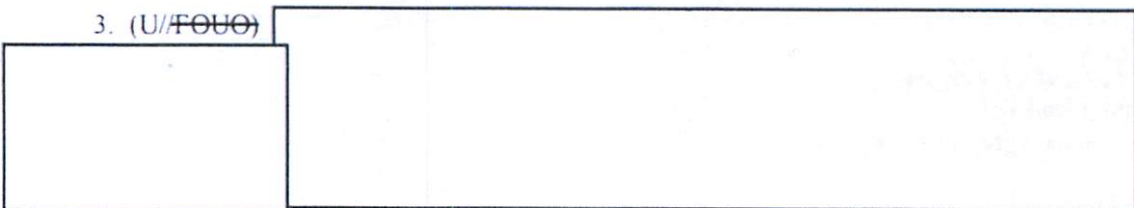
1. (U) NSA/CSS shall conduct a polygraph program pursuant to References a-m and in accordance with Annexes A through D to this policy to assist with:

a. (U) Determining the eligibility of persons for NSA/CSS employment and/or access to NSA/CSS protected information; access to areas where NSA/CSS protected information is discussed, processed, produced, or stored; facilitating unescorted access to unclassified areas within the NSA/CSS protected perimeter;

b. (U) Determining the continued eligibility of persons for employment and/or access to NSA/CSS protected information and/or spaces; and

c. (U) Conducting counterintelligence and special personnel security investigations, when determined to be essential to the resolution of such investigations.

2. (U//~~FOUO~~) An NSA/CSS affiliate's refusal to consent to, or to complete to the satisfaction of the Associate Directorate for Security & Counterintelligence, any aspect of the procedures of this policy, when implemented as a requirement for initial or continued access to NSA/CSS protected information and/or spaces, may result in adverse administrative actions. These actions may include denial, suspension, and/or revocation of access to NSA/CSS protected information and/or spaces and removal from NSA/CSS employment. (b) (3) - P.L. 86-36

3. (U//~~FOUO~~) 

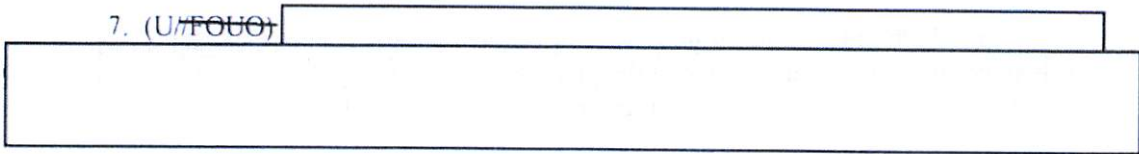
4. (U//~~FOUO~~) Only personnel considered by the polygraph examiner to be in sound physical or mental condition shall be subject to polygraph examinations, as detailed in Annex C.

5. (U) NSA/CSS shall not conduct a polygraph examination unless the person being considered for a polygraph examination executes a Privacy Act Statement and voluntarily consents to the examination in writing after having been advised of the conditions set forth in Annex A to this policy.

6. (U) Individuals may be requested to take a Counterintelligence Scope Polygraph (CSP) examination on an aperiodic basis at any time after their initial clearance.

(b) (3) - P.L. 86-36

7. (U//~~FOUO~~)



8. (U) NSA/CSS shall consider polygraph examination results and reports to be privileged information, handled in accordance with applicable provisions of References k and l, and disseminated only in accordance with provisions of Annex B to this policy.

9. (U) Polygraph examiners shall be selected, trained, and supervised as set forth in Annex D to this policy.

10. (U) Polygraph examinations shall be conducted in an accredited SCIF (sensitive compartmented information facility) as appropriate.

**(U) RESPONSIBILITIES**

11. (U) The Chief, Office of Personnel Security (Q2) shall:

a. (U) Execute the polygraph program authorities and associated administrative functions specified in this policy;

b. (U//~~FOUO~~) Maintain control of polygraph examination reports, results of polygraph examinations, and recording tapes in accordance with procedures specified in Annex B to this policy;

c. (U//~~FOUO~~) Authorize the conduct of polygraph examinations of persons who are proposed for assignment to special intelligence operations;

d. (U) Authorize the conduct of polygraph examinations of individuals from other agencies when prior approval has been granted by the appropriate Head of an Intelligence Community Element (HICE), Agency Head, or designee. Polygraph support to non-Department of Defense (DoD) organizations shall be conducted in accordance with Reference i;

e. (U) For purposes of Intelligence Community (IC) employee mobility, accept on a reciprocal basis polygraphs conducted by other IC elements in accordance with Reference e;

f. (U) Review all voluntary requests for a polygraph examination by NSA/CSS affiliates to resolve matters related to initial or continued eligibility for access to NSA/CSS protected information and/or spaces; and

g. (U//~~FOUO~~) Establish processes for the appropriate maintenance and storage of polygraph instruments, and authorize the procurement of polygraph instruments, parts, and supplies through NSA/CSS procurement channels.

12. (U) The Chief, Office of Personnel Security additionally may:

a. (U) Authorize the use of polygraph examiners, on a temporary loan basis from other DoD agencies, who are certified under the provisions of Reference h;

b. (U) Authorize the detail of NSA/CSS polygraph examiners to conduct polygraph examinations for other Government agencies on a case-by-case basis, in coordination with the ADS&CI, and in accordance with Reference i;

c. (U) For situations outside the purview of Reference e, accept the results of polygraph examinations conducted by other DoD and/or IC agencies in lieu of examinations conducted by NSA/CSS polygraph examiners as appropriate;

d. (U//~~FOUO~~)

[Redacted]

(b) (3) - P.L. 86-36

e. (U//~~FOUO~~)

[Redacted]

f. (U) Authorize polygraph research in coordination with the Defense Academy for Credibility Assessment and the OUSD/I, and in accordance with Reference m.

(U) REFERENCES

1 3. (U) References:

a. (U) Public Law 109-163, Sec 1054, "Revision of Department of Defense Counterintelligence Polygraph," dated 6 January 2006.

b. (U) Executive Order 12333, "United States Intelligence Activities," as amended, dated 31 July 2008.

c. (U) ICD 704, "Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information and Other Controlled Access Program Information," dated 1 October 2008.

d. (U) ICPG 704.6, "Conduct of Polygraph Examinations for Personnel Security Vetting," dated 4 February 2015.

e. (U) ICD 709, "Reciprocity for Intelligence Community Employee Mobility," dated 10 June 2009.

f. (U) DoD Directive 5100.20, "National Security Agency/Central Security Service (NSA/CSS)," dated 26 January 2010.

g. (U) DoD Instruction 5210.45, "Personnel Security Policies and Procedures for Sensitive Cryptologic Information in the National Security Agency/Central Security Service," dated 14 November 2008.

h. (U) DoD Directive 5210.48, "Credibility Assessment (CA) Program," dated 24 April 2015.

i. (U) DoD Instruction 5210.91, "Polygraph and Credibility Assessment (PCA) Procedures," dated 12 August 2010.

j. (U//~~FOUO~~) NSA/CSS Policy 5-1, "Personnel Security Requirements for Members of the Service Cryptologic Components Assigned or Detailed within the NSA/CSS," dated 2 August 2011.

k. (U) NSA/CSS Policy 1-5, "NSA/CSS Freedom of Information Act Program," dated 24 May 2004.

l. (U) NSA/CSS Policy 1-34, "Implementation of the Privacy Act of 1974," dated 9 June 2003.

m. (U) NSA/CSS Policy 10-10, "Protecting Human Subjects of Research," dated 19 September 2014.

n. (U) Executive Order 13526, "Classified National Security Information," dated 29 December 2009.

o. (U) Public Law 86-36, "National Security Agency Act of 1959" (codified as amended in 50 U.S.C. section 402 note).

p. (U) 5 U.S. Code, Section 552, "Freedom of Information Act."

(U) DEFINITIONS

14. (U//~~FOUO~~) Affiliate - An applicant for NSA/CSS employment or contractor applicant or a person employed by NSA/CSS; experts, consultants, and contractors - including all subcontractors; personal services contractors; or any other category of person who acts for or on behalf of NSA/CSS as determined by the DIRNSA/CHCSS.

15. (U) Counterintelligence Scope Polygraph (CSP) - A personnel security interview conducted with the aid of a polygraph, consisting of questions regarding espionage, sabotage, terrorism, unauthorized disclosure, secret contacts with foreign entities, and damaging U.S. Government information systems.

16. (U) Expanded Scope Polygraph - A personnel security interview conducted with the aid of a polygraph, consisting of the CSP question areas listed above, plus detected and undetected serious crimes, illegal drug involvement, and falsification of security forms.

17. (U) Head of an Intelligence Community Element (HICE) - The head of an organization or activity within the Intelligence Community as defined in Reference b.

18. (U) NSA/CSS Protected Information - Information obtained as a result of a relationship with the NSA/CSS, which is:

a. (U) Classified or in the process of classification determination pursuant to Executive Order 13526 (Reference n), or any successor Order, and implementing regulations. It includes, but is not limited to, intelligence information, sensitive compartmented information (intelligence sources and methods) and cryptologic information (information concerning information systems security and signals intelligence); or

b. (U) Unclassified, appearing in any form or compilation, which NSA/CSS may withhold from public disclosure under authority of The National Security Agency Act of 1959 (Reference o) or by reason of being either excluded or exempted from the mandatory disclosure requirements of the Freedom of Information Act (Reference p). (Source: Corporate Policy Glossary)



(U) ANNEX A

(U) ADVISEMENT TO POLYGRAPH EXAMINEES

1. (U) Polygraph examinees shall be advised:

a. (U) That they are entitled to timely notification of the date and time of the polygraph examination and place where it will be conducted;

b. (U) That they are privileged against self-incrimination in accordance with the Fifth Amendment to the U.S. Constitution and, if the person to be examined is a member of the U.S. Armed Forces, in accordance with Article 31 of the Uniform Code of Military Justice;

c. (U) That they have the right to obtain and consult with legal counsel of their own choice prior to the polygraph examination;

d. (U) Of the characteristics and nature of the polygraph instrument and examination, including an explanation of the physical operation of the instrument, the procedures to be followed during the examination, the topic areas of all questions to be asked during the examination, and that information developed will be protected against unauthorized disclosure in accordance with Reference 1;

e. (U//~~FOUO~~) Whether the interview area contains a two-way mirror, camera, or other device whereby the examinee can be observed, and if other monitoring devices will be used simultaneously with the polygraph;

f. (U) That information obtained during the interview will be used to ensure compliance with References c and g relative to security processing and granting of access to NSA/CSS protected information and/or spaces; that routine use of the information is for initial or continued access determinations; and that disclosure of information is voluntary;

g. (U) That information provided regarding possible or actual violations of criminal laws may be disseminated to appropriate law enforcement authorities;

h. (U//~~FOUO~~) That refusal to consent to a polygraph examination, when it has been established as a requirement for selection or assignment to NSA/CSS, or as a condition of initial or continued access to NSA/CSS protected information and/or spaces, may result in an adverse action, non-selection for assignment or employment, denial or revocation of access to NSA/CSS protected information and/or spaces, or termination of employment; and

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i. (U) That any deliberate attempt to affect the physiological data obtained during a polygraph interview by the intentional application of physical, mental, pharmacological, or behavior tactics will be grounds to terminate the interview and may result in the denial or revocation of security clearance eligibility.

2. (U//~~FOUO~~) Refusal to take a polygraph examination shall be recorded only in the individual's security file maintained by the ADS&CI. An individual's supervisor and, in the case of a contractor employee, the individual's employer, shall not be informed of the refusal to take a polygraph, nor shall the personnel files be annotated, unless such refusal requires administrative action.

(U) ANNEX B

(U) RECORDS /ADMINISTRATION OF POLYGRAPH EXAMINATIONS  
AND RELATED MATERIAL

1. (U//~~FOUO~~) General. Records associated with polygraph examinations consist of reports and technical data. Reports include: 1) identity of the examinee and/or case file number; 2) identity of the examiner; 3) requestor and approval authority for the examination; 4) type of polygraph examination; 5) relevant questions; 6) results of the test data analysis supported by the Quality Control (QC) reviewer; 7) name and organization of the QC reviewer; 8) identity of the interpreter, if used; 9) pre-test and/or post-test information obtained during the polygraph interview; and, 10) date and time of the examination. Technical data includes: 1) pre-test forms; 2) question lists; 3) test data analysis materials and examination charts; and, 4) QC comments and documents used by the examiner to prepare the official examination report.

2. (U//~~FOUO~~) Storage and Retention. The Chief, Office of Personnel Security shall control and determine the location for the storage and retention of polygraph examination reports, technical data, and recording tapes in accordance with records retention procedures established by the Archivist of the United States. Non-record copies of the polygraph results of the test data analysis shall be destroyed  after the completion of the case which included use of the polygraph.

(b) (3) - P. L. 86-36

3. (U) Dissemination Controls. Information obtained in the course of a polygraph examination interview shall be strictly controlled in accordance with References h and l.

a. (U//~~FOUO~~) Polygraph examination reports shall be made available within the Agency only to the Director, NSA/Chief, CSS; Deputy Director, NSA; the NSA/CSS Chief of Staff; other officials designated by the ADS&CI; and to the subject of the examination pursuant to a Privacy Act request or Freedom of Information Act request (References k and l).

b. (U) Reports of polygraph examinations, other than those released by law, or pursuant to Freedom of Information Act and Privacy Act requests, will not be released outside the NSA/CSS unless expressly authorized by the ADS&CI.

c. (U//~~FOUO~~) Except in those instances to comply with Freedom of Information Act or Privacy Act requests, the polygraph results of the test data analysis shall be removed from security files prior to granting access to the file, unless specific authorization for review of the polygraph results has been granted by the Chief, Office of Personnel Security or designee.

d. (U) Except in those cases to comply with Freedom of Information Act or Privacy Act requests, substantive information provided by the examinee during the polygraph examination shall not be released outside the NSA/CSS unless expressly

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authorized by the ADS&CI or designee. With such authorization, information may be released to:

1) (U) Appropriate officials within the DoD and the IC who demonstrate an official need for the material;

2) (U//~~FOUO~~) Appropriate law enforcement officials, outside the DoD, when the information obtained during a polygraph examination reveals a possible or actual violation of Federal or state law. In such cases, an accounting shall be maintained of the date and purpose of the release and of the name and address of the person or agency to which the release is made;

3) (U) The examinee or legal counsel for the examinee, upon written consent of the examinee subject to provisions for safeguarding NSA/CSS protected information; and/or

4) (U//~~FOUO~~) DoD component members of the National Foreign Intelligence Board (NFIB) and to other NFIB member agencies, provided that there is an official need for the material and that the third agency limitation will be applied.

(U) ANNEX C

(U) CONDUCT OF EXAMINATIONS

1. (U//~~FOUO~~) Polygraph examinations shall be conducted only by personnel certified as polygraph examiners in accordance with Annex D of this policy. Polygraph examiner trainees serving their internship and other examiners who have not yet completed a required refresher period of internship shall conduct polygraph examinations only under the direct supervision of a polygraph examiner certified in accordance with this policy.

2. (U) In accordance with Reference i, a polygraph examination shall not be conducted if, in the opinion of the polygraph examiner, a physical or mental condition exists that will inhibit the individual's ability to be tested. In such instances, the examination shall be postponed until appropriate medical, psychological, or technical authorities have declared the individual fit for testing.

3. (U) At the beginning of the interview, the examiner shall provide an explanation of the nature of the test to the examinee. Before beginning each polygraph examination, the examiner shall review with the examinee all topics to be covered by questions asked during the test.

4. (U//~~FOUO~~) Polygraph examinations of individuals requiring staff-like access and/or access to NSA/CSS automated information systems, to include applicants for NSA/CSS employment, contractor employees, and other persons with similar affiliations with NSA/CSS for whom the DIRNSA/CHCSS is the cognizant HICE, will include the Expanded Scope Polygraph question areas in accordance with Reference g. Contractor personnel under the HICE cognizance of the DIRNSA/CHCSS who do not require staff-like access and/or access to NSA/CSS automated information systems shall be subject to CSPs for both initial and continued access to NSA/CSS protected information.

5. (U) Polygraph examinations of military personnel being assigned or detailed to the NSA/CSS and/or other personnel being so assigned or detailed will be conducted by their cognizant HICE and accepted by NSA/CSS in accordance with References j and e respectively. If an assignee's HICE has no polygraph capability, the polygraph will be conducted by the NSA/CSS in accordance with References g and j.

6. (U) To assist in determining eligibility for continued employment and/or access to NSA/CSS protected information and/or spaces, NSA/CSS affiliates shall be subject to aperiodic CSPs at any time during their affiliation with the NSA/CSS in accordance with Reference g.

7. (U) Polygraph examiners shall not participate in any public demonstration of the polygraph technique that includes a mock test in which there is an attempt to interpret the results of the test. This does not preclude a public demonstration to show the physiological changes that take place during an examination, provided no attempt is made to interpret the changes and no

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unfounded claims of application or reliability are made. Only polygraph examiners certified under the provisions of Annex D of this policy may be used as instructors, lecturers, or demonstrators of the polygraph.

8. (U//~~FOUO~~) Persons certified as DoD polygraph examiners shall not perform polygraph examinations nor participate in polygraph-related activities in connection with non-duty hour employment with any private or commercial polygraph firm, or engage in outside employment of any kind with a non-federal entity that has or is likely to have business with the NSA/CSS without ADS&CI approval.

9. (U//~~FOUO~~) The conduct of each polygraph examination shall be supervised by Quality Control Managers within the polygraph organization. Decisions regarding the need for an individual to undergo repeat polygraph examinations shall be made by the appropriate management level within the Office of Personnel Security as determined by the Chief, Office of Personnel Security.

(U) ANNEX D

(U) SELECTION, TRAINING, AND SUPERVISION OF NSA/CSS POLYGRAPH EXAMINERS

1. (U) Selection. All candidates selected for the position of polygraph examiner shall meet the following minimum requirements, unless waivers have been granted by the Defense Academy for Credibility Assessment:
  - a. (U) United States citizenship;
  - b. (U) Twenty-five years of age;
  - c. (U) Graduation from an accredited college with a baccalaureate degree or equivalent;
  - d. (U) Two years as an investigator with a United States Government department or agency or a state or local law enforcement agency; and
  - e. (U) Successful completion and adjudication of a background investigation, polygraph examination, and psychological assessment demonstrating suitability for the position.
2. (U) Training.
  - a. (U) NSA/CSS polygraph examiners may be trained at:
    - 1) (U) The Defense Academy for Credibility Assessment; or
    - 2) (U//~~FOUO~~) An equivalent course, as approved by the DIRNSA/CHCSS. When equivalent courses are used, the Deputy Under Secretary of Defense (Policy) shall be advised.
  - b. (U) No person shall be certified as an NSA/CSS polygraph examiner without having successfully completed an approved basic course and having demonstrated an understanding of the appropriate application of the following:
    - 1) (U) Investigative techniques;
    - 2) (U) Methods of interrogation;
    - 3) (U) The basic elements of normal, abnormal, and criminal psychology;

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- 4) (U) Constitutional and other legal considerations;
- 5) (U) Physiology;
- 6) (U) The functioning of the polygraph, including its capabilities and limitations;
- 7) (U) DoD, Office of the Director of National Intelligence, and NSA/CSS polygraph policies;
- 8) (U) Polygraph techniques; and
- 9) (U) Question formulation and chart interpretation.

c. (U//~~FOUO~~) Before being certified as a qualified polygraph examiner, a candidate shall serve a probationary period of not less than six months, and conduct not less than  complete polygraph examinations under the direct supervision of a certified polygraph examiner.

d. (U//~~FOUO~~) Appropriate provision shall be made by the Chief, Office of Personnel Security to ensure that NSA/CSS polygraph examiners obtain a minimum of  hours of appropriate training at intervals of not less than every  years.

3. (U) Supervision of Polygraph Examiners.

a. (U) The Chief, Office of Personnel Security will ensure that the conduct of each polygraph examination shall be supervised pursuant to the provisions of this policy.

(b) (3) - P.L. 86-36

b. (U) Each examiner will be responsible for the preparation of a written report of each examination. The report will be a factual and objective presentation of pertinent information developed during the interview, prepared in accordance with a prescribed format, and subject to supervisory review.

c. (U//~~FOUO~~) Certified examiners will exercise their technical skills regularly and conduct a minimum of  polygraph examinations semiannually. Certified examiners who direct and instruct examiners, who are responsible for the proficiency of examiners, and who review charts and reports may retain their certification without conducting the  examinations with an exemption approved by Chief, Office of Personnel Security.

d. (U//~~FOUO~~) Should an examiner fail to conduct the minimum number of cases or fail to satisfy proficiency standards, certification shall be suspended or revoked as appropriate.

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Dated: 20 October 2015



c. (U//~~FOUO~~) Certifications that are suspended for failure to conduct the minimum number of cases may be reinstated upon completion of at least  examinations under the direct supervision of a certified examiner. With the approval of Chief, Office of Personnel Security, certifications that are suspended for failure to satisfy proficiency standards shall be reissued after suitable refresher training and demonstration of an acceptable standard of proficiency.

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Dated: 20 October 2015