

Know Your Rights:

Polygraph Exam Information for Victims of Sex Crimes

Why are victims asked to take polygraph exams?

- Being asked to take a polygraph exam does not necessarily mean that the police do not believe you.
- Sometimes, taking a polygraph exam can help your case, for example if the suspect has refused to take a test. A polygraph test can also verify the truth of your statement.
- Your taking the test can be used by the police to put pressure on the suspect(s).
- However, you do not have to agree to take a polygraph exam and cannot be forced to do so.

‘I’m nervous and upset about this whole situation. How would that affect the test results?’

- Nervousness does NOT look like lying. Everyone is nervous when taking polygraph tests.
- Nervousness registers consistently throughout the test, as opposed to lying which registers in response to specific questions.
- It is normal for an innocent person to be nervous and the polygraph examiner knows this.
- If you are taking any type of medication, let the polygraph examiner know before the exam.
- Do not stop taking any prescribed medications. Let the examiner know if there has been any change.

What are my rights as a victim of a sex crime?

- You have the right to refuse to take a polygraph exam.
 - In fact, you must give your consent in writing before the exam begins.
 - Also, the investigating officer must submit a written, signed statement that you have not been told that the investigation would stop if you refused to take the exam. Furthermore, the officer must describe what investigative strategies have already been used in the case.
 - If you have been told that the case would not go forward unless you agreed to take an exam, you should be sure to tell the polygraph examiner. Such statements are strictly prohibited.
- You have the right to terminate the exam at any time.
- You have the right to have a victim advocate come with you. Upon your request, the advocate must be allowed to observe the exam and debriefing through a 2-way mirror or closed-circuit television.
- You have the same ‘Miranda rights’ everyone has, including the right to remain silent and the right to have an attorney.
- You have the right to complain if your rights are violated. Complaints should be made in writing to the Secretary of the Cabinet for Justice & Public Safety, Bush Building, 403 Wapping St., Frankfort, KY 40601.

What kinds of questions will be asked during the polygraph exam?

- The main polygraph test questions will be directly related to the sex crime.
- However, general background questions will be asked for comparison.
- Questions about the victim's past sexual history are strictly prohibited.
- The polygraph examiner will go over all the test questions with you, word-for-word, before the exam begins.
- There will not be any trick questions or surprise questions. But, questions will be repeated.
- No questions will be asked that were not discussed prior to the exam.

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How long will the polygraph exam take?

- You should plan to be at the office for about three hours, but only part of this time will be the test.
- Before the test begins, the examiner will spend about an hour with you to give you information about the test and answer any questions that you may have.
- After the test, the examiner will conduct a 'debriefing,' or go over the results with you and give you an opportunity to explain any problems with any of the questions about the sexual assault.
- Tell the polygraph examiner if you need to take a break at any time.

What other rules regulate polygraphing victims of sex crimes?

- A victim cannot be examined simply to verify that a crime has occurred. The investigative officer must use other strategies first and be able to identify specific issues for the examination.
- A victim cannot be examined unless the suspect has passed, declined, or been found physically or mentally unsuitable for an exam.
- A victim cannot be examined unless the investigating officer first provides the polygraph examiner a written, signed document listing investigative strategies already used and declaring that the victim has not been told that the investigation would cease if the victim refuses to consent. This written statement must not contain any reference to whether the victim is behaving as a 'typical' victim or not. The victim may ask the examiner whether this document has been submitted. If not, the examiner should refuse to conduct the exam.
- The entire examination must be videotaped, with audio.
- The victim and the suspect cannot be tested or present in the same facility at the same time.
- The victim must not be interrogated before, during, or after the examination.

Where can I get more information or assistance?

- You can contact an advocate from the regional Rape Crisis Center that serves victims in your area. You can be connected by calling the hotline at 800-656-HOPE, or you can find out more information about the center near you on-line at www.kasap.org. An advocate can give you more information, accompany you when you talk to law enforcement officials, take a polygraph exam, go to court, or in other situations. Advocates can also connect you with other helpful resources.
- Rules regarding polygraphing of sex crimes victims are part of the regulation that controls polygraph examiners, 502 KAR 20:020 Section 3. You can get a copy online at www.lrc.state.ky.us/kar/502/020/020reg.htm.
- The Kentucky State Police Polygraph Supervisor Richard Kurtz is available to discuss questions and concerns. He can be reached at 502-573-2100.
- Complaints must be filed in writing to the Secretary of the Kentucky Cabinet for Justice & Public Safety, Bush Building, 403 Wapping Street, Frankfort, KY 40601.