

**Most Complaints about
CBP's Polygraph Program
Are Ambiguous or
Unfounded**





DHS OIG HIGHLIGHTS

Most Complaints about CBP's Polygraph Program Are Ambiguous or Unfounded

July 26, 2018

Why We Did This Audit

In 2010, Congress required U.S. Customs and Border Protection (CBP) law enforcement applicants to receive a polygraph examination. We initiated this audit to determine whether CBP has effective controls over its polygraph and complaint processes.

What We Recommend

We made two recommendations to CBP to improve its quality control and complaint review processes.

For Further Information:

Contact our Office of Public Affairs at (202) 254-4100, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

Although CBP had controls over its polygraph examination process, a key control over its review and approval process was not always operating as intended. Specifically, in a small number of cases, the polygraph quality control program may not have always conducted independent and objective reviews (blind reviews) of polygraph examination results, as required. During the audit, CBP addressed our concerns and updated its quality control procedures. These updated procedures — finalized in September 2017 — require independent and objective quality control reviews.

We also determined that 96 percent of the complaints we reviewed were unfounded or ambiguous. However, CBP did not have a formal complaint review process, which led to inconsistent and subjective reviews. This approach risks not finding or properly addressing issues contained in the complaints.

CBP Response

CBP concurred with both recommendations and implemented recommendation 1 by revising its standard operating procedures to address quality control reviewers conducting an objective review.

CBP is finalizing a formal policy to implement recommendation 2. The policy will define the polygraph review process and the appropriate actions for responding to complaints.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

July 26, 2018

MEMORANDUM FOR: The Honorable Kevin K. McAleenan
Commissioner
U.S. Customs and Border Protection

FROM: John V. Kelly 
Senior Official Performing the
Duties of the Inspector General

SUBJECT: *Most Complaints about CBP's Polygraph Program
Are Ambiguous or Unfounded*

Attached for your action is our final report, *Most Complaints about CBP's Polygraph Program Are Ambiguous or Unfounded*. We incorporated the formal comments from the U.S. Customs and Border Protection in the final report.

The report contains two recommendations. Your office concurred with both recommendations. Based on information provided in your response to the draft report, we consider recommendation 2 open and resolved. Once your office has fully implemented the recommendation, please submit a formal closeout letter to us within 30 days so that we may close the recommendation. We consider recommendation 1 resolved and closed. Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact John E. McCoy II, Assistant Inspector General for Audits, at (202) 254-4100.



Background

Three Department of Homeland Security components use polygraph examinations to screen law enforcement applicants for suitability prior to hiring. The United States Secret Service (Secret Service), Transportation Security Administration (TSA), and the U.S. Customs and Border Protection (CBP) have polygraph programs; and U.S. Immigration and Customs Enforcement is establishing one. CBP conducts the most screening polygraph exams — 78 percent of the Department’s fiscal year 2016 exams, as shown in figure 1.

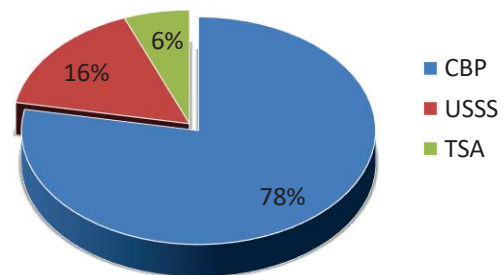
The *Anti-Border Corruption Act of 2010* requires CBP law enforcement applicants to receive a polygraph examination before they are hired.¹ The National Center for Credibility Assessment (NCCA) trains and certifies Federal polygraph examiners and programs. NCCA establishes Federal standards and requires Federal polygraph programs to establish standard operating procedures for conducting and maintaining polygraph programs.

CBP uses the polygraph as a tool to identify potential suitability and national security issues. Examiners use instruments to measure and record an applicant’s respiratory, skin, and cardiovascular reactions to questions. According to polygraph theory, truthful and deceptive answers trigger different reactions in the body. Examiners compare physiological reactions to either corroborate or challenge information provided by the applicant.

CBP’s Credibility Assessment Division administers the polygraph exam, which consists of three phases:

- **Pre-test Interview** — examiners provide an explanation of the polygraph instruments and exam; ensure the equipment is working properly; obtain a waiver; and review the polygraph questions with the applicant.
- **Polygraph Examination** — examiners use two types of questions to screen applicants. Suitability questions cover illegal drug use and

Figure 1: Percent of FY 2016 Polygraphs by Component



Source: Office of Inspector General (OIG) analysis of polygraph data

¹ Pub. L. No. 111-376, § 3 (2011). This requirement may be waived for veterans who are deemed suitable for employment by the Commissioner; hold a Top Secret clearance with access to sensitive compartmented information; have a current single scope background investigation; and did not use previous waivers to obtain the clearance. See *National Defense Authorization Act for Fiscal Year 2017*, Pub. L. No. 114-328, § 1049 (2016).



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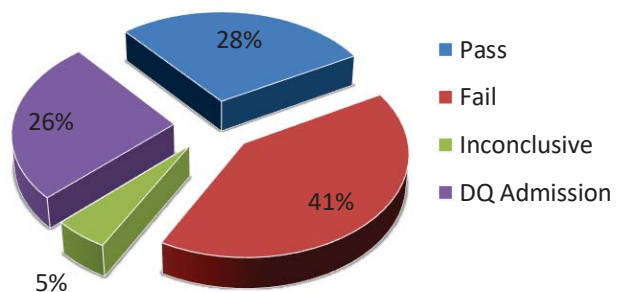
serious crimes. National security topics include terrorist activity, unauthorized foreign contacts, and mishandling classified information.

- **Post-test Interview** — examiners review the preliminary polygraph exam results with the applicants.

The polygraph process includes a quality assurance review. CBP does not consider a polygraph final until quality control personnel review, concur with, and certify the examiner's results; and ensure the test complied with Federal and CBP polygraph standards. A polygraph result can be conclusive (pass or fail) or inconclusive (more testing needed). Applicants who pass continue in the hiring process. Those who fail can retake the exam after 2 years. If a test is inconclusive, CBP may invite an applicant to retake the exam.

CBP administered polygraph examinations to about 33,000 applicants between FYs 2013 and 2016 (figure 2 shows the results of the exams). During that time, CBP spent about \$72.3 million on the polygraph program. As noted in our previous report,² applicants provided information, or admitted to behavior, that disqualified them from employment eligibility (DQ admission). For example, during a pre-test interview, applicants admitted to using illegal drugs, molestation, domestic violence, and even being an accessory to murder; yet, these applicants sat for the polygraph exam. CBP implemented our recommendation to contact adjudicators immediately when an applicant admits to wrongdoing. If the adjudicator determines the applicant is unsuitable, the examiner ends the test and CBP removes the applicant from the hiring process.

Figure 2: CBP's Polygraph Exam Results for FYs 2013 – 2016



Source: OIG analysis of CBP polygraph data

During fieldwork of our 2017 audit, CBP also initiated a pilot program for a new polygraph format. According to CBP, the combination of the new format, and its implementation of our recommendation, reduced the average length of an exam from 5.1 hours to 4.3 hours. It also increased the rate of passing exams. Although CBP administers a similar polygraph exam as other agencies, we cannot reasonably compare the results. This is due to variables in applicant demographics and agency hiring processes, such as the pre-security interview.

² *CBP Spends Millions Conducting Polygraph Examinations on Unsuitable Applicants* (DHS OIG 17-99-MA, August 2017)



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A recent DHS OIG inspection report noted CBP continues to have significant delays in hiring law enforcement personnel.³ CBP had significant challenges in identifying, recruiting, and hiring law enforcement officers, and its average hiring process took more than 220 days in FY 2015. During our 2017 audit, the President directed the Department to hire an additional 5,000 border patrol agents. The Secretary also directed CBP to hire 500 new Air and Marine Officers.

Results of Audit

Although CBP had controls over its polygraph examination process, a key control over its review and approval process was not always operating as intended. Specifically, the polygraph quality control program may not have always conducted independent and objective reviews (blind reviews) of polygraph examination results, as required. We also determined that 96 percent of the complaints we reviewed were unfounded or ambiguous. Nevertheless, CBP did not have a formal complaint review process, which led to inconsistent and subjective reviews. This approach risks not finding or properly addressing issues contained in the complaints.

Quality Control Review Process

CBP established a quality control program to comply with NCCA standards. NCCA requires Federal polygraph programs to establish standard operating procedures for conducting and maintaining a quality control program. A polygraph exam is not complete until quality control examiners review the results. This review is a critical step in the polygraph process. It ensures that at least two examiners independently and objectively agree on the results.

Testing the Quality Review Process

We reviewed a statistical sample of 380 polygraph examinations from FY 2013 through FY 2016 to determine whether quality control reviews occurred as intended. Although CBP's polygraph system showed that it met quality control requirements, the quality review process may not have worked as intended. Specifically, the quality control reviewers could communicate with each other or with the examiner before they completed their reviews. This communication could compromise the integrity of CBP's quality control review process.

³ *DHS Is Slow to Hire Law Enforcement Personnel* (DHS OIG 17-05, October 2016)



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CBP Actions during the Audit

During the audit, we discussed our concerns with CBP officials and they updated their quality control procedures. These updated procedures, finalized in September 2017, require independent and objective quality control reviews.

Complaints about Polygraph Exams

Although 87 percent of applicants do not even make it to the polygraph phase (see appendix C for more information), CBP's polygraph program is still identified as an impediment to the hiring process, and complaints about the program persist. We reviewed CBP's complaints to determine their validity and found that 96 percent of the complaints we reviewed were unfounded or ambiguous. All but one of the complaints came from applicants without a passing polygraph result.

Review of CBP's Polygraph Complaints

We reviewed 157 complaints to determine whether CBP had an effective process and whether the complaints were true. The complaints fell into three categories — those missing information or otherwise too vague to review; those which were not true (the allegation was not substantiated by an audio review); and those which were true (the allegation was substantiated by an audio review). Of the 157 complaints, we determined that:

- 130 (83 percent) were either not specific or did not have enough information to review;
- 21 (13 percent) were not true based on the allegation; and
- 6 (4 percent) were true.

We determined CBP did not adequately address five of the six substantiated complaints. For the complaint it addressed adequately, CBP conducted an audio review and allowed the applicant to retest.

CBP Lacked Policies and Procedures for Addressing Complaints

Although the majority of CBP's complaints were ambiguous or unfounded, CBP did not have policies and procedures for addressing complaints. The extent of CBP's review depended largely on factors such as whether the allegation would affect the outcome of the exam, if the applicant admitted to wrongdoing, or the applicant failed the exam. In some cases, CBP reviews the audio file to substantiate complaints about professionalism.



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Without a formal policy, CBP risks not finding and properly addressing issues identified in a complaint. Given the high visibility and negative image of the polygraph program, CBP should ensure it consistently reviews and addresses complaints about unprofessional behavior.

Recommendations

Recommendation 1: We recommend the Commissioner of CBP develop additional controls to ensure polygraph quality control reviews comply with Federal polygraph standards.

Recommendation 2: We recommend the Commissioner of CBP develop and implement a formal policy for the complaint review and response process.

Management Comment and OIG Analysis

CBP concurred with our recommendations and took steps to address them. A summary of CBP's response and our analysis follows. We included a copy of CBP's management comments in their entirety in appendix B.

CBP Response to Recommendation #1: Concur. CBP agreed that the quality control reviews of polygraph test data should be objective. CBP took steps during our audit to ensure the quality control objective reviews comply with Federal polygraph standards. Specifically, CBP revised its polygraph quality control standard operating procedures to address the objective review between quality control examiners.

OIG Analysis: We reviewed the revised procedures and believe the revisions will clarify the quality control review to ensure it is objective, and help CBP's polygraph program comply with Federal polygraph standards. CBP's efforts are responsive to the recommendation, and we consider it resolved and closed.

CBP Response to Recommendation #2: Concur. CBP agreed to implement a formal complaint review and response process policy. CBP is finalizing standard operating procedures to define its process to review polygraph complaints and determine the appropriate response. The estimated completion date is June 30, 2018.

OIG Analysis: CBP's proposed actions meet the intent of the recommendation. We consider the recommendation resolved and open. The recommendation will remain open until we review documentation showing CBP implemented the policy and to ensure the policy fully addresses the recommendation.



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Appendix A

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

Our audit objective was to determine whether CBP had effective controls over its polygraph and complaint processes. To answer our objective we:

- interviewed officials from CBP's Credibility Assessment Division, Personnel Security Division, Human Resource Management, and budget offices to gain an understanding of the polygraph examination and obtain program statistics and cost information;
- interviewed polygraph examiners, and polygraph Quality Control personnel in Washington, DC; Tucson, Arizona; Dallas, Texas; and Miami, Florida;
- observed polygraph examinations in Washington, DC; Tucson, Arizona; and Miami, Florida;
- consulted with an internal subject matter expert on polygraph examinations;
- analyzed a September 2015 internal report that CBP commissioned on Pre-Employment Polygraph Assessments;
- attended the National Center for Credibility Assessment's (NCCA) Polygraph Program Managers course in Columbia, South Carolina, to gain an understanding of the program;
- reviewed a statistical sample of 380 polygraph examinations administered during FYs 2013-16 from a universe of 32,532 to determine whether CBP followed controls over the polygraph examination;
- assessed the reliability of data in the sample and requested that NCCA and CBP review a judgmental sample of exams to confirm the final result. We determined the data was sufficiently reliable for the purposes of our audit;
- observed the polygraph quality control review process;
- reviewed NCCA and CBP polygraph standards;



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- requested that NCCA conduct a review of 19 polygraph examinations in which CBP overturned passing exams to determine whether the overturn was reasonable;
- obtained 157 complaints submitted during FYs 2013–17 that CBP related to the polygraph program. We reviewed those complaints by listening to audio recordings and reviewing documents to determine whether CBP addressed the complaints and whether the process was adequate. We obtained access to CBP’s Credibility Assessment and Polygraph Services system to conduct our review;
- discussed our audit findings with CBP and issued a Management Alert on program efficiency; and
- interviewed officials at the United States Secret Service, Immigration and Customs Enforcement, Transportation Security Administration, and the Federal Bureau of Investigation to gain an understanding of their polygraph programs.

We conducted this performance audit between October 2016 and October 2017 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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Appendix B
CBP Comments to the Draft Report

1300 Pennsylvania Avenue NW
Washington, DC 20229



**U.S. Customs and
Border Protection**

MEMORANDUM FOR: John V. Kelly
Acting Inspector General
Department of Homeland Security

FROM: Henry A. Moak, Jr.
Acting Senior Component Accountable Official
U.S. Customs and Border Protection

SUBJECT: Management Response to OIG Draft Report: "Most
Complaints about CBP's Polygraph Program are Ambiguous
or Unfounded" (Project No. 16-085-AUD-DHS)

MAY 16 2018

Thank you for the opportunity to review and comment on this draft report. U.S. Customs and Border Protection (CBP) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

CBP appreciates the positive feedback that the OIG provided regarding its polygraph program; specifically, the acknowledgment that CBP addressed the OIG's concerns and updated its quality control procedures during the course of this audit. CBP is committed to maintaining its polygraph exam program in accordance with Federal polygraph policies and procedures and effectively using it to help prevent, detect and, investigate all threats to the integrity of the agency.

The draft report contained two recommendations, with which CBP concurs. Attached find our detailed response to each recommendation. Technical comments were previously provided under separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment



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Attachment: Management Response to Recommendations Contained in OIG Draft Report: "Most Complaints about CBP's Polygraph Program are Ambiguous or Unfounded" (Project No. OIG-16-085-AUD-DHS)

The Office of Inspector General (OIG) recommended that the Commissioner of U.S. Customs and Border Protection (CBP):

Recommendation 1: Strengthen controls to ensure polygraph quality control reviews comply with federal polygraph standards.

Response: Concur. Since its inception, CBP's polygraph program has included measures to ensure quality control (QC) reviews comply with federal polygraph standards evidenced by the fact that CBP has passed all five Quality Assurance Program (QAP) biennial inspections conducted by the National Center for Credibility Assessment (NCCA). As part of these inspections, the NCCA verifies program compliance with QC standards, to include objective reviews. In all five inspections, including the most recent in 2017, the NCCA QAP concluded that CBP's program met all federal standards. In 2017, the NCCA even noted QC was a strength of the CBP program.

However, as the OIG pointed out, certain QC protocols regarding the completion of an appropriate "blind review," specific to when examiners could communicate with each other or with the examiner during the review were not always followed by CBP. CBP's Office of Professional Responsibility (OPR) notes that there was some confusion related to the term "blind review" in association with the QC reviews. A QC review is no longer a "blind review," as this represents outdated terminology in the polygraph community. Following input, discussion, and approval of the NCCA, the review is now referred to as an "objective review," which is a review of the test data collected during a polygraph examination.

The objective review process required additional guidance. CBP OPR has taken steps to ensure protocols are adhered to regarding communication during the objective review by updating the QC Standard Operating Procedure (SOP) on discussions between QC reviewers. Specifically, on September 9, 2017, OPR revised its QC SOP to include the following language: "If QC1 non-concurs with examiner, the exam will be sent out for QC2 review. QC1 will not discuss with QC2 until after QC2 is complete. QC2 will be an objective review."

We request that the OIG consider this recommendation resolved and closed.

Recommendation 2: Develop and implement a formal policy for the complaint review and response process.

Response: Concur. CBP OPR is finalizing a formal policy, in the form of an SOP, for the complaint review and response process. The SOP will clearly define this process, to include the mechanism used to store, process, and review polygraph process complaints, as well as the appropriate actions and methods of response warranted depending on the nature and circumstances of each complaint and outcome of the review. The SOP will work in conjunction



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Attachment: Management Response to Recommendations Contained in OIG Draft Report: Most Complaints about CBP's Polygraph Program are Ambiguous or Unfounded (Project No. OIG-16-085-AUD-DHS)

Page 2

with CBP's current policy on complaints specific to allegations of misconduct.

Estimated Completion Date: June 30, 2018.



Appendix C

Where Applicants Are Removed in the Hiring Process

The polygraph exam comes after several other hiring steps. Most applicants (87 percent) do not make it to the polygraph phase. Figure 3 shows the percentage of applicants removed at each phase.

Figure 3: Percentage of Applicants Removed at Each Phase

Hiring Process Step	Percent Removed
Announcement/Pre-Screening	24
Entrance Exam	48
Qualifications	5
Interview	6
Medical Exam	2
Physical Fitness Test	2
Percent of Applicants Removed Prior to the Polygraph Exam:	87
Polygraph Phase	10
Background Investigation	1
Remaining Phases	<1

Source: DHS OIG analysis of CBP's 2016 hiring statistics



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Appendix D
Office of Audits Major Contributors to This Report

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Appendix E
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