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## Polygraph in the Polish Secret Service

Polygraph screening has proved its highest utility for the United States Secret Service, which has used the polygraph to a very significant extent. The existence of the Department of Defense Polygraph Institute (DoDPI) – a separate unit dealing only with polygraph testing – serves as evidence of this fact. This Institute prepares an annual report of its activity to the US Congress (Matte, 1998).

According to available information, 1951 was the beginning of polygraph testing in Poland, yet this fact was revealed only in the 1960s. The 1970s brought significant scientific achievements in the field of polygraph examinations; the books of Jan Widacki (Widacki, 1977b, Widacki, 1981a, Widacki, 1982c) were a breakthrough, as was *Experimental Investigation of the Relative Validity and Utility of the Polygraph Technique and Three Other Methods of Criminal Identification* (Widacki, Horvath 1978d), which he wrote with Frank Horvath.

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An increased use of the polygraph in Poland was evident after 1990, when the basic elements of democracy rose from scratch in the post-communist reality. A specific example for the effort that was made, apart from the experience already gained, were the uses of the polygraph in recruiting police officers in the United States (Matte, 1998).

Nowadays, polygraph screening has many applications. Polish law allows polygraph testing in trials as an expert opinion. Practice has shown that the need for polygraph testing in Poland is large and gradually increasing.

Military units have nearly forty years of experience in the field of polygraph examinations. In 1957, a military counter-intelligence institute was established – the Military Internal Service (WSW) – which was subordinate to the Ministry of National Defence and replaced the Main Directorate of Information of the Polish Army (GZI). In 1969, WSW leaders organized a preliminary course for candidates to be experts in the field of psychophysiological testing. The leader of this course was a prominent specialist (who had also had been published in the American journal “Polygraph”) – Dr. Aleksander Krzyścin, who at the time had fifteen years experience in polygraph work. Between 1969 and 1989, military experts examined 4626 people in 943 cases.

## Military Information Services

The military units of the People’s Republic of Poland’s intelligence and counter-intelligence services were disbanded by order of the Minister of National Defence in April 1990. Also in this year, the Military Internal Service was combined with the Second Directorate of the General Staff on the Polish Army (military intelligence). Thus, the Military Police and the Second Directorate for Intelligence and Counter-intelligence was established. In 1991, the Second Directorate for Intelligence and Counter-intelligence was transformed into the Military Information Services (WSI).

The Military Information Services Act of July 2003 established the requirements for accepting a candidate into service with the MIS. According to this act, applicants must be regular soldiers in active military service, either permanent or temporary. Further, as an element of the qualification process

polygraph testing was conducted on soldier candidates for positions that required specific qualifications or pre-dispositions. Polygraph examinations were considered to be helpful in assessing psychological suitability to serve in the MIS. Moreover, the act broadened this procedure to include soldiers already working in the Military Information Services but who wanted to be transferred to such a position. The Head of the Services made the decision in such cases. Thus, a situation wherein a soldier applying for a position requiring specific qualifications would not undergo a polygraph examination could have been possible as a consequence of a lack of such a decision.

In June 2004, the Minister of National Defence issued an executive regulation reiterating the paragraph concerning the conducting of psychophysiological testing as an element of qualification procedure. A personal questionnaire that candidates were supposed to complete was attached as an annex to this executive regulation. Section IV of this regulation contained the following questions: (1) Have you ever undergone a psycho-physiological examination? If yes, please indicate when and for what purpose? and (2) Do you consent to undergo a psycho-physiological examination? Pursuant to the executive regulation, the qualification process is halted in the event of a negative result of the examination or a refusal to undergo testing by methods set out in the regulation. This approach shows the importance attached to polygraph examination and the potential information that could be gathered as a result. Without an examination, the decision would be not to employ the candidate, which seemed a reasonable method, particularly because a person in a position requiring specific qualifications would undergo a polygraph examination several times during their employment. Thus, it should not be permitted that candidates refuse to undergo a polygraph examination at the very beginning of the qualification process.

## The Military Counterintelligence and Intelligence Services

The Military Information Service was disbanded in 2006 and on 1 October 2006 the Military Counterintelligence and Intelligence Services were established (SKW and SWW). Article 5 of the law establishing these services addresses the issue of polygraph examinations. It concerns the qualification process and assumes that for candidates applying for a position requiring specific qualifications, the process would be broadened to include procedures to verify the candidate's suitability for such a position; one such procedure

would be polygraph screening. This particular provision – when compared to its equivalent in the Military Information Service Act – exhibits one major difference. The Military Counterintelligence and Intelligence Services Act uses the expression “the qualification process can be expanded to include procedures (...) including psycho-physiologic testing.” Thus, the application of polygraph examination is not compulsory in the qualification process, but should be applied as the particular case warrants. Enabling legislation implements regulations related to the procedure. Article 9 on the qualification process for employment in the Military Counterintelligence Service provides for the possibility of conducting psycho-physiological testing on a candidate based on a decision of the head of the Service. The candidate must answer two questions: (1) Have you ever undergone a psycho-physiological examination? If yes, please indicate when and for what purpose. (2) Do you consent to undergo a psycho-physiological examination? The regulation contains a provision according to which whenever a candidate does not consent to undergo an examination, the qualification process is discontinued. The same consequence occurs in the event of a negative result of any element of the procedure. With respect to polygraph testing, a negative outcome means that the examinee has been not honest in his/her responses or has attempted to conceal some information. Thus, the proper action in such cases is to halt the procedure. Due to the fact that this law concerns both the Military Counterintelligence and the Military Intelligence Services, the executive regulation on Military Intelligence contains the same provisions as the regulation on the Military Counterintelligence Service.

## The Military Gendarmerie

After the disbanding of the People’s Republic of Poland’s military intelligence and counterintelligence services, police functions were taken over by the Military Gendarmerie headquartered in Warsaw, as provided in the executive ordinance of the Minister of National Defence in 1990 (in this manner the pre-war tradition of the Gendarmerie in the Polish Army was reactivated since formally the gendarmerie was disbanded in 1949 by the Polish Military Forces in the West).

In the legislative act on the Military Gendarmerie of August 2001, which is still in force, the issue of psycho-physiological testing is regulated as a possible element in the qualification process for the Military Gendarmerie.

The act refers to the executive ordinance of the Minister of National Defence, which stipulates the precise requirements for candidates for employment with the military. The recruitment procedure to the Gendarmerie entails a qualification process that is regulated under the decision of the Minister of National Defence of November 2002. To begin the qualification process, a candidate must submit an application to the Commander of the Military Gendarmerie and complete the qualification form. In the second stage, an “examination and polygraph testing” are expected. The Provincial Recruitment Boards, however, conduct the qualification of the candidates to work in the Military Gendarmerie.

The criteria that candidates for work in the Military Gendarmerie should meet were expressed in the Minister of National Defence’s executive ordinance of December 2001 concerning the additional physical and psychological conditions of Military Gendarmerie employees. Article 1 sets out the expectation that successful candidates must achieve positive results on psychological tests.

As a separate group of candidates, the regulation considers those applying for regular service. The criteria that candidates for regular service in the Military Gendarmerie should meet were also expressed in the Minister of National Defence’s executive ordinance of December 2001 concerning the additional physical and psychological conditions of the regular soldiers in the Military Gendarmerie. This regulation foresees, among others, the achievement of positive results on psycho-physiological tests. An identical approach is applied towards soldiers who are not in regular service.

In both the act and the executive ordinance, no issue is raised about the discontinuation of the qualification process in the event of a candidate’s refusal to undergo psycho-physiological testing, which is a noticeable difference in the regulation. The executive ordinance stipulates the positive outcome on qualification tests as a condition for employment. Taking this into consideration, the potential candidate will not be accepted if the result of the polygraph screening is negative. The question then is what happens if a candidate refuses to undergo testing; would that be regarded as a negative result? Can a candidate be accepted for employment if he/she has refused to undergo an undoubtedly significant element of the qualification procedure?

## State Protection Office

In 1990, after the Security Service was liquidated, the State Protection Office was established. The institution existed up to June 2002, and together with the Military Information Service, was a part of the Polish Secret Service.

The Act on the State Protection Office contained a regulation referring to “physical and psychological” abilities as pre-conditions for service in the “military formations subject to specific discipline”. These abilities were verified by certain medical boards subordinate to the head of the Office. The statute dealt with the qualification process of the candidate and assumed the possibility of conducting “psycho-physiological” testing. As a condition for employment, the need arose to check if the candidate had the special qualifications demanded for the position. The act defers to executive ordinances specifying the qualification process. Although the Minister of National Defence’s executive ordinance of 1990 did not use the phrase “psycho-physiological testing,” it was implied that it could be applied if the position for which the candidate was applying required “special pre-dispositions”. The State Protection Office Act was repealed in 2002.

## Internal Security Agency and Intelligence Agency

After the State Protection Office was disbanded in May 2002, two separate agencies were established: the Internal Security Agency and the Intelligence Agency.

The Internal Security Agency and Intelligence Agency Act raises the matter of expanding the qualification process of “psycho-physiological testing” whenever the candidate applies for a post that requires special pre-dispositions. An executive ordinance of 2002 to which the act refers enumerates psycho-physiological testing as one of the stages of the qualification process for the Internal Security Agency. An identical provision is found in the executive regulation of 2003 concerning the precise methods of conducting the qualification process for service in the Intelligence Agency.

It is worth mentioning the fact that the personal questionnaires constituting appendices to the executive ordinances on the Internal Security Agency

and the Intelligence Agency do not contain any provision under which the candidate is supposed to give (or not) consent for polygraph testing. The consequence of a candidate's refusal to take part in the proceedings at any stage of the qualification process is its discontinuation. Nevertheless, in the case of polygraph testing, the candidate's consent or lack thereof it is not enclosed in the questionnaire.

Another issue concerns an article of the Internal Security Agency and Intelligence Agency Act based upon which an officer of the agency can be screened on a polygraph. The decision on referral for testing lies with the agency head. In the author's opinion, due to the fact that psycho-physiological testing is conducted when considering employment of a candidate for a position requiring special abilities, the article in question should be clarified by adding a statement that only a person in such a position or one applying for such a position can be referred for polygraph screening.

## The Central Anticorruption Bureau

The CBA was established by the Central Anticorruption Bureau Act of June 2006 as a special service to combat corruption in the public and private sectors, especially in state and local government institutions, as well as to fight any activity that endangers national economic interests.

The Central Anticorruption Bureau Act is the newest piece of legislation discussed in this article. It uses the phrase "polygraph screening" for the qualification process for a position requiring special abilities. At the same time, the act states that this part of the qualification process can be omitted when the candidate is an officer or a former officer of the Internal Security Agency, Intelligence Agency, the Border Guard, or the Police. An executive ordinance from July 2006 concerning the precise methods of conducting the qualification process provides for the possibility of screening the candidate on a polygraph if the position demands special qualifications. Additionally, the regulation stipulates that refusal to undergo verification or a negative outcome at any stage result in the automatic discontinuing of the procedure. This provision, however, does not refer to the polygraph testing. This approach differs completely from all other approaches described in this article (it can be only compared to the approach found in

the Military Gendarmerie Act, which does not mention the discontinuation of the qualification process at all). Consequently, the negative outcome of the candidate's polygraph examination indicating an absence of abilities required to work in the position in question does not discontinue the qualification process. Clearly, the lawmakers have made a mistake that needs to be rectified.

## The Border Guard

The Border Guard was established by a regulation in 1990 at the time of the disbanding of the military formation of the Border Defence Army. This is a Polish state security agency entrusted with patrolling national borders. At present, polygraph screening is widely used among most of the Border Guard, probably due to the fact that it is one of the most modern military units in Poland.

The regulation requires polygraph testing during the application process for any position in the Border Guard. The qualification process consists of two phases, the first stage of which is psycho-physiological testing. The regulation provides for the conducting of "psychological tests verifying the candidate's intellectual and personal pre-dispositions". No polygraph procedure is involved in the second stage. The most recent amendment to this regulation (in 2006) does not alter anything.

Recently, the author contacted the press spokesmen for the Military Gendarmerie, the Internal Security Agency, and the Intelligence Agency to obtain further information concerning the legal acts and regulations mentioned in this article. The author asked respondents to comment upon any controversial aspects of the regulations concerning each of agencies.

To the author's surprise, only one press spokesman, from the Military Gendarmerie, took my request seriously and replied me in details. He explained that, according to the best of his knowledge, no such instance had occurred in which a candidate for employment had refused to undergo a psycho-physiological test. On the other hand, he admitted that the Military Gendarmerie does not have any statistics concerning polygraph examinations on the whole. Instead, they only register the fact of conducting such an examination. This is mainly based on the presumption that hardly anyone

would be interested in details such as the number of examinations conducted or other about polygraph practices of the Military Gendarmerie.

No other replies to the author's queries were received; thus, no further conclusions can be reached. The press spokesman of the Internal Security Agency, however, assured the author that a reply would soon be sent by email. At the time of this writing, however, the author is still awaiting a reply.

## Conclusion

The main objective of this study was to present the current legal status of polygraph testing in the Polish Secret Service. Unfortunately, the image of the Polish Secret Service is far from coherent. There is a deficiency of cohesion between the regulation of certain branches in the aspects of, for instance, testing officers or soldiers in active service. This has been well-defined in only one regulation – for the Military Information Service – which is not in force. It cannot be assumed that polygraph testing is not an applied method. It is well-known that polygraph testing can be used by all units of the secret service as a legal framework of operating procedures. None of the acts specifically mentions the possibility, although this can be concluded from from such phrases as: “verifying the reliability of obtained information”. In light of the foregoing, the use of polygraph screening cannot be excluded in the testing of those under suspicion, but not only. It can be surmised that the use of polygraph testing in cases such as those in private industry, where for example employee loyalty is checked. Moreover, “verifying of the reliability of obtained information” involves the polygraph screening of persons who are sources of information. Thus, it can be assumed that the polygraph is being used in the progress of detecting “humint”.

The Polish Secret Service does not publish any reports concerning polygraph testing and for this reason no statistical knowledge is available about the annual number of polygraph examinations conducted – neither about the methods and the kinds of tests used most often, nor about the cases in which it has been used most widely. We also do not know how many candidates applying for positions requiring special qualification and undergoing polygraph screening failed to pass. It is believed that polygraph testing is used on the widest scale in the Border Guard and that is the only piece of information that approximately defines the usage of polygraph in the Polish Secret Service.

We may one day have in Poland a situation in which polygraph testing is recognized in society as well as in the government as an undoubtedly reliable and necessary method. Then, as is the case in the United States, annual reports will be published for the government or special committees on the scale and usage of the polygraph. Only time will tell.

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