

Polygraph Examination in Lithuania: History, Legal Framework, and Practice

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Abstract

Polygraph has had more than 30 years of extensive history in Lithuania. This paper offers an overview rather than in-depth research into how polygraph developed in Lithuania in last three decades. There are similar articles about legal and practical aspects of using polygraph in Lithuania published in Lithuanian, with one of them having been published in European Polygraph in 2007 (Kraujalis et al 2007) nevertheless, the author evaluates current situation of the polygraph in Lithuania.

Key words: polygraph, polygraph examination, history of polygraph in Lithuania, lie detection, polygraph law, polygraph resolution, polygraph legislation in Lithuania

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History

This paper presents the personal memories and institutional memory of its author, who has worked with the polygraph in Lithuania since 1997.

More than 30 years have passed since the first polygraph examination in Lithuania. Currently, it is hardly possible to find out when exactly the first polygraph examination was conducted in Lithuania, but it can be safely dated to c. 1992–93. That indicates that just after Lithuania regained independence, such institutions of the Lithuanian state as the Government Security Department under the Ministry of the Interior of the Republic of Lithuania (hereinafter, GSD) that has subsequently transformed to Government Security Service of the Republic of Lithuania (hereinafter, GSS) were the pioneers of polygraph use in Lithuania. To the best of the author's knowledge, gained while working on his master degree paper called "Lie Detection Method: Theory and Practice" (defended in 1997), which had the author communicate with the supervisors of the above-mentioned Department in the early 1997 (Kraujalis, 1997), and the author's memory, the GSD had already had around four trained polygraph examiners at that time. Three of them started their polygraph examiner careers in the earliest days of its use in Lithuania. A few years later, two of them continued conducting polygraph examinations, then, more recently, only one of them continued polygraph examinations and his polygraph examiner's carrier at the GSD until his retirement in around 2014. According to social media sources, he is still active in 2024.

The GSD received, quite likely, as a donation, a mechanical Lafayette polygraph, and started first polygraph examinations. The above-mentioned polygraph was four-channel Lafayette polygraph with thermal pens and was "writing" the curves on a special fax type paper.

The first 5 years of polygraph in Lithuania in the GSD was a particular period of incubation. As indicated above, the author defended his master thesis on lie detection in 1997, while further huge polygraph expansion started a year later, when the Ministry of the Interior of the Republic of Lithuania established a special section in the entity called General Inspection operating in the Ministry of the Interior (hereinafter, MoI). Along with the MoI, the Second Department of the Operational Services (Military Intelligence) created its own section expected to start polygraph examinations in the Ministry of the Defense under the Republic of Lithuania. Four Lafayette LX3000 instruments were purchased: two for either ministry.

In September 1998, Ministry of the Interior of the Republic of Lithuania invited two Polish professors, Jan Widacki and Jerzy Konieczny, to Lithuania. They provided an extensive two-week training on polygraph at a recreational facility of the Ministry of the Interior in Trakai. Around ten students from various agencies attended the class.

Along with this training, the author of this article and another prospective polygraph examiner, one representing the Ministry of the Interior and one – the Ministry of Defence, travelled to the US and completed a 10-week basic training course for polygraph examiners at one of polygraph schools, namely the Maryland Institute of Criminal Justice, fully accredited by the American Polygraph Association at that time.

The section of the General Inspection in the Ministry of the Interior later was transformed into the Immunity Unit operating under the Ministry of the Interior of the Republic of Lithuania. The Immunity Unit's primary mission was to conduct all polygraph examinations within the area of internal affairs.

The above-mentioned unit had all operational capabilities to conduct polygraph examinations: trained personnel, two computerised polygraphs, special well-equipped premises, and standard operational procedures in place. However, for political reasons, the Immunity Unit did not start practical implementation of polygraph examinations and was reorganised in May 2000. Its personnel were sent to other positions, and polygraphs were allocated to the GSD.

A section of military intelligence started conducting polygraph examinations around 1999. Thus, with the start of the new millennium, the GSD and Military Intelligence were performing polygraph examinations.

The next step in the development of practical polygraph examinations in Lithuania in 2001 came when two officers of the Immunity Unit (one of them being the author of this article) continued their duty in one of the special police agencies, which regained one Lafayette LX3000 set from the GSD, developed certain operational polygraph capabilities, and conducted first polygraph examinations in the police force in 2001–06, mostly for the purposes of preemployment and internal affairs.

The following step in development of polygraph in Lithuania was taken around 2008 when the State Security Department of the Republic of Lithuania (hereinafter, SSD) started its own polygraph programme.

Polygraph developed further when an officer of the special police agency (the author of this article, again) was transferred to the Lithuanian Police Forensic Science Center (hereinafter, LPFSC) in April 2011. Also another officer from the Tool-mark section of the LPFSC was moved therein to become a polygraph examiner. This was how two officers started a full-scale polygraph programme within police in October 2011. As any beginning, this was a challenging task. First, examinations had to be conducted by polygraph examiners with little practical experience. Secondly, every step, every proposal for polygraph development had to be forced, and required convincing the supervisors. The polygraph examiners in the LPFSC quickly realised that only aggressive promoting of polygraph with the simultaneous coaching of supervisors, prosecutors, investigators and judges can generate sufficient workload, and keep them on the surface.

The efforts paid back: the untrained officer was sent to the polygraph school accredited by the American Polygraph Association in 2013 and successfully completed the basic polygraph examiner course. The more experienced polygraph examiner renewed his membership at the American Polygraph Association (hereinafter, APA), and the newly trained officer started his membership at the APA too. The LPFSC supervisors started sending LPFSC examiners to the APA annual seminars. Training and coaching of police investigators, and prosecutors and judges significantly increased the number of polygraph examinations: from 15 polygraph examinations in 2012 to 52 polygraph examinations in 2018. In almost 12 years, the LPFSC polygraph examiners conducted around 50 training sessions in all Lithuanian county police stations, all regional prosecutors' offices, the National Court Administration, all regional courts, and also in such specialised agencies as the Special Investigation Service, the Custom Criminal Service, and many others.

The use of the Russian-made polygraph Diana was discontinued in the LPFSC early in 2014, when the LPFSC upgraded the old Lafayette LX 3000 obtained from the special police agency to the version latest at that time, the LX 5000.

A new chapter in the development of polygraph examinations in Lithuania started around 2014 when the Police Immunity Board hired two civil servants and trained them to be polygraph examiners. They started conducting polygraph examinations for internal affairs of the police. In 2015–17, the Lithuanian police had four examiners operating the polygraphs. However, in the next two years three of those four polygraph examiners left the service, and the police were left with only one polygraph examiner: the author of this article. That polygraph examiner had to cover all crime investigation cases, all internal cases in the police and some other

agencies, and the polygraph examinations requested by the courts. Needless to say, such broad area required covering by more than one polygraph examiner, but the number was never increased.

Beginning with early 2023, the last polygraph examiner in LPFSC and the only in whole police moved to another agency and since then neither police nor any crime investigating authority has an option to request a polygraph examination. At the time of writing this essay, that is in October 2024, polygraph examiners in Lithuania are only employed by Military intelligence, SSD, and GSS, where they only conduct polygraph examinations for the internal purposes of those agencies.

Legal Framework

Prior to 2000, Lithuania had no dedicated polygraph legislation save for few lines on polygraph in the Law of the Republic of Lithuania on the Organisation of the National Defence System and Military Service. Its Article 26 section 4 read “In order to ensure protection of the state and service secrets and/or to evaluate information provided by soldiers, polygraph can be used, yet only with the written consent from the soldier. A soldier refusing to be tested by polygraph cannot perform duties involving state or service secrets”. The same law contained an almost identical regulation on civil servants in the National Defence system (Article 72 section 4).^{*}

Extensive preparations for the drafting of the Law on Using the Polygraph took place in 1998–2000, and the law was adopted in August 2000.”

The author of this article possesses institutional memory on peculiarities of preparing the law. There were plentiful debates during the preparation phase on whether, how, and to what extent polygraph should be regulated in Lithuania. At some of the final stages, the draft of the law was entitled “The Law on Using the Polygraph in State Service”, yet later it lost the ending of the title and became “The Law on Using the Polygraph”. From the perspective of legal technique, the title “The Law on Using the Polygraph in State Service” would correspond to the spirit and content of the Law more precisely than “The Law on Using the Polygraph”.

^{*} Lietuvos Respublikos krašto apsaugos sistemos organizavimo ir karo tarnybos įstatymas, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.56646/MjJtVrhhiF> (accessed: 12.12.2024).

^{**} Lietuvos Respublikos poligrafo naudojimo įstatymas, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.107745> (accessed: 12.12.2024).

Moreover, it is quite likely that, having a cursory look at the Law, every lawyer would deem that the Law on Using the Polygraph was too descriptive, too complex, and too unclear. This was probably caused by the long drafting and adoption phase, in which the ultimate goal of the Law (precision, conciseness, clarity, regulation of crucial areas) was lost.

However, taking aside the above-mentioned criticism, the Law on Using the Polygraph in the Republic of Lithuania of 29 August 2000 was probably one of the first (if not the very first) in Europe if not in the world to regulate the use of polygraph examinations by a legal act of the highest rank.

Another advantage of the law dedicated to polygraph was that it enabled ministries and other institutions to run their polygraph programmes by creating special polygraph units and starting polygraph examinations. At the peak of polygraph popularity, Lithuania had four institutions with polygraph examination capabilities. Those institutions were Military Intelligence, SSD, GSD (GSS), and the police under the umbrella of LPFSC. Currently, only the Military Intelligence, GSD, and GSS operate polygraph programmes.

However, even though mandated and ordered by the Law on Using the Polygraph (hereinafter, Polygraph Law), two institutions ignored the Law and never developed own polygraph capabilities. One of them was the institution delegated by the Ministry of Finance (most probably – the Lithuanian Customs), the other – the Special Investigation Service specifically dedicated to fight corruption.

The Polygraph Law regulated and regulates the main aspects of polygraph usage: the extent, the institutions, the cases when polygraph may be used, what persons may be tested, how the test procedure must be performed, what the specific requirements for the polygraph examiner are, under what conditions the examinee is considered disqualified from testing, what the consequences of testing outcomes are, and how the information collected during polygraph examination may be used.

The Polygraph Law was adopted with the intention to regulate all polygraph related activities in Lithuania. This was clearly stated in its Article 1 “Purpose of the Law”: This law establishes the procedures of using of the polygraph, rights and obligations of the institutions using the polygraph, rights and obligations of polygraph examiners; rights and obligations of the subjects.”

Article 3 section 2 stated: “Polygraph examination is forbidden except for institutions using polygraph as permitted by Polygraph Law.”

When one considers other restrictions on who can be tested set by Article 4 section 2 (only civil servants, officers and soldiers, and candidates for the above-mentioned positions) and the extent of polygraph examinations (mainly for the purposes of administering classified information), the use of polygraph for criminal investigations was literally banned. The Polygraph Law also ordered to adopt the resolution on implementing the Polygraph Law, and similarly several other laws were amended with the polygraph regulations.

This resolution, being the Lithuanian Government's resolution on adopting the "Polygraph Examination Rules and the Polygraph Examination Authorisation Form" (hereinafter, Polygraph Resolution) was passed on 12 July 2002.^{*} The above-mentioned resolution regulated in detail the polygraph procedure: requirements concerning polygraph devices, daily workload for polygraph examiners, requirement for polygraph examiner to issue written opinions. It also awarded rights to the subjects: to be informed in advance about assigned polygraph examination, to be informed about the purpose and procedure of the examination, and about the fact that polygraph examination is CCTVed and recorded. The subject also had to be informed about their rights.

The resolution also regulated the stages of polygraph examination and the steps that have to be completed in each of the stages. The Polygraph Resolution also set the number of final polygraph conclusions to three: negative, when polygraph data indicate that the subject is deceptive; positive, when polygraph data indicates that the subject is truthful; and inconclusive, when according to polygraph data it is not possible to decide whether the subject is truthful or deceptive. The author believes that the law introduced an interesting way of delivering the final opinions. It is obvious that such a solution is more suitable for screening and preemployment purposes, as a practice commonly accepted in Lithuania in the case of polygraph examinations in criminal investigations is delivering expert opinions about outcomes of each test.

Moreover, the Polygraph Resolution regulated the procedure for repetitive polygraph examinations, e.g. when the subject has the right to be retested. According to the Polygraph law this is only possible in another institution. Finally, the law defined the form for the authorisation to conduct polygraph examinations.

^{*} Dėl Tyrimo poligrafu taisyklių ir Leidimo atlikti tyrimus poligrafu formos patvirtinimo [Text in Lithuanian only], <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.171266?jfwid=q8i88lsjl> (accessed: 12.12.2024).

The Polygraph Law has been in operation for twenty-five years, and has only received five-minute amendments. The main changes have been:

1. Clarifying and broadening the definition of the polygraph.
2. Enabling one institution conducting polygraph examinations, when due to structural changes the GSS became independent from the MoI.
3. The category of the eligible subjects was broadened as the intelligence (counter-intelligence) and criminal intelligence sources were added.
4. Scope of polygraph examinations was revised to adjust it to the new legal terms.
5. The assigning procedure for polygraph examination was slightly revised.
6. The requirements for polygraph examiners were substantially revised, which included removing the requirement for polygraph licence and Top Secret security clearance, and addition of the requirement to complete 400 hours in a recognised polygraph training school.
7. Consequences for the negative outcome and for the refusal to undergo testing were slightly revised. More strong verbs were added (It should be noted that cancellation or not issuing the security clearance due to negative conclusion or refusal to be tested still remained not automatic. It also takes into account all information.)

It should be noted that Polygraph Resolution was amended on 1 July 2015 when a new version of the Polygraph Resolution was adopted.*

The new Polygraph Resolution was well arranged in systematic approach and followed legal logic. It consists of four sections: General Provisions, Requirements for Polygraph Examination, Polygraph Examination Procedure, and Final Provisions.

The law defines all stages of the polygraph examination (preparation, pre-test interview, testing, post-test interview, data evaluation and writing the conclusions) and states what has to be done in each of the stages, specifying also the requirement for audio or audio-and-video recording of the examination. It also sets the timing for polygraph examinations and limits how many polygraph examinations (not more than two) can be conducted in a day. It also declares that, beside the examiner and the subject, only an interpreter may be present on the premises where the examination is conducted. It also establishes the procedure for testing polygraph devices, requiring their operation to comply with manufacturer recommendations and speci-

* Dėl Lietuvos Respublikos Vyriausybės 2002 m. liepos 12 d. nutarimo Nr. 1131 „Dėl Tyrimo poliagrafu taisyklių ir leidimo atlikti tyrimus poligrafu formos patvirtinimo“ pakeitimo, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/a9845ec124a011e58a4198cd62929b7a?jfwid=-11aplrcnl> (accessed: 12.12.2024).

fying minimum recording requirements as two channels for the pneumograph, one for electrodermal activity, one for cardiac activity, and one being the movement sensor (seat). It also sets the criteria for polygraph tests (they should be validated by at least 2 independent studies in peer reviewed journals, have at least 60 % of accuracy in screening tests, and at least 80% accuracy in specific issue testing).

The novelty introduced in the Polygraph Resolution of 2015 was the Annex with the List of accepted polygraph techniques, which included 14 validated control question techniques and the Relevant – Irrelevant Question Technique (RIT) for screening purposes only. From the current perspective, it is obvious that RI technique may not be used in polygraph examinations due to low accuracy.

Such are the foundations of the Lithuanian legal framework for polygraph examinations. The above considerations do not however cover all the uses of polygraph in criminal investigation and in other areas where polygraph can be used. The author believes that the use of the polygraph in Lithuania should be extended to all possible areas in order to take maximum advantage of this scientifically proven method of detecting deception. Therefore, the Polygraph Law should be substantially revised and the whole legal framework changed to permit the use of polygraph in all the areas where it is needed, private sector included.

Practice

As indicated in the history section of this article, the first polygraph examinations in Lithuania started in 1992 or 1993. From 1992 to the beginning of 1997, around 30 polygraph examinations were conducted in Lithuania, mostly in murder cases (Kraujalis 1997:74) in the GSD and some more for GSD's internal purposes. It is rather difficult to determine how many polygraph examinations were conducted later.

Information on the quantity of polygraph examinations conducted by the Military Intelligence (since 1999) and the SSD (since c. 2009) are not available for secrecy reasons. Those are agencies that should perform polygraph examinations extensively for preemployment, vetting, and counterintelligence purposes.

The data available to the author concerns polygraph examinations conducted only in the LPFSC in 2011–22. There are no exact statistical data for the period, yet around 450 polygraph examinations (100%) were probably conducted in various, mostly criminal, cases.

Some readers may be confused reading that the vast majority of polygraph examinations at the LPFSC were conducted in criminal cases, while Polygraph Law does not allow using polygraph for criminal investigations, but that is not a mistake. These polygraph examinations were conducted not on the grounds of Polygraph Law but of the articles of the Criminal Procedure Code regulating examinations related to criminal investigation. In 2011–22, around 90% of polygraph examinations were conducted in criminal cases, and around 10% in internal police investigations, upon requests of other agencies, and, albeit few, upon requests of natural persons.

More than 50% of the subjects were suspects or accused, fewer than 30% were witnesses, around 10% of all the subjects were victims and around 10% were private and accidental persons having no status in criminal proceedings. The composition of the subjects has not changed substantially and remained almost identical throughout the above-mentioned period.

The largest proportion of polygraph examinations (approximately one third) was conducted in homicide cases. Combined, other violent crimes—such as robbery, physical assault, grievous bodily harm, and theft—accounted for roughly another third. Fraud, corruption, and other “white-collar crimes”, as well as domestic violence, each constituted only a few percent of the cases. The remaining 12% of polygraph examinations were conducted in cases involving missing persons, workplace accidents, drug offenses, manslaughter, arson, disobedience of lawful police orders, private disputes, and internal investigations of police and other institutional staff.

In courts of first instance, polygraph examinations were typically accepted as evidence in nearly 80% of cases. In appellate courts, the acceptance rate was below 50%, similar to that of the Supreme Court of Lithuania. The Supreme Court accepted polygraph examination results as evidence in almost 50% of the cases where such evidence was submitted.

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