

## **Council on Sex Offender Treatment**

### **Use of the Polygraph in the Assessment and Treatment of Sex Offenders**

#### **Background**

The polygraph is a recording instrument that monitors and records the respiration, circulation, and perspiration baselines and changes; certain changes are associated with fear of detection, which is the reason why many people lie. Every licensed polygraph examiner in Texas has either attended a rigorous polygraph school to learn to use the polygraph instrument and conduct the associated interviews, or have been through a long preceptor-training program with a competent examiner. Prior to receiving a polygraph license, each examiner has to pass a four-phase examination administered by the Texas Polygraph Examiners Board. Following licensure, each examiner should receive specialized training in the area of sex offender testing prior to conducting clinical polygraphs on sex offenders.

**Polygraph Exams** measure the emotional arousal that is caused by fear and anxiety. The autonomic nervous system responds to arousal with physiological reactions such as increased heart rate, increased depth of respiration, and increased sweat gland activity.

#### **Types of Polygraphs administered to sex offenders:**

1. **Instant Offense Disclosure Test**-This polygraph is related to the offense of conviction, in conjunction with the official version. It is essential because a client cannot progress in treatment if they are dishonest about their offense. Some offenders will plead guilty or no contest and receive a deferred adjudication or regular probation for their offense. Other offenders will be found guilty by a court, sentenced to prison, and then receive parole. In either case many of the probationers or parolees are in denial of all or part of the offense for which they plead. The polygraph is used to help break the denial in those offenders; most treatment providers will agree that treatment cannot be successful until an offender breaks denial.

2. **Sexual History Disclosure Test**- This polygraph, along with the Penile Plethysmograph, assists in defining the offender's sexual arousal. This polygraph addresses deviant and criminal sexual behaviors that were part of the offender's past, prior to the date of the instant offense conviction. It is usually conducted after the offender has come out of denial and is willing to accept responsibility for the offense. Gathering information about an offender's sexual history assists the treatment provider in creating or modifying an offender's treatment plan and it allows for the assessment of risk regarding the offender.

3. **Maintenance Test**- This polygraph covers supervision and treatment compliance from the period of conviction to the present. Offenders are subject to various rules mandated by supervision conditions and treatment contracts, and use of the polygraph can assist in determining compliance with these conditions and contracts

4. **Monitoring Test**- Otherwise known as a community safety polygraph, this test is designed to determine whether the offender has committed a new sexual offense during the period of supervision

**Reasons for the Use of the Polygraph in Sex Offender Treatment** § Sexual offenders are extremely resistant to disclosing their offending histories for a variety of reasons. The polygraph has shown promise as an intervention for eliciting admissions of past behaviors.

Polygraph testing combined with intensive sex offender treatment provides the most comprehensive information on the offender's past deviant sexual history. The actual rate of

crossover in sex offending is considerably higher than what has been typically reported. These findings support the use of polygraph testing and intensive sex offender treatment programming for obtaining critical sexual offense history information (Heil, Ahlmeyer, and Simons, 2003).

The use of the post-conviction polygraph is becoming a valuable tool in the management and treatment of convicted sex offenders. The use of the postconviction is relatively new to many agencies, however, Washington and Oregon have been consistently using this tool since the early 1980s. Combined with criminal justice supervision and sex offense-specific treatment, post conviction polygraph exams are making a substantial contribution to managing the significant risk that sex offenders present to the public (Cooley-Towell, Pasini-Hill, and Patrick, 2000).

Researchers in a 1999 study by Ahlmeyer, English, and Simons found that through polygraph examinations, the number of offenders who “crossed over” groups of victims, were extremely high. The study revealed that before polygraph examination, 6% of a sample of incarcerated sex offenders had both child and adult victims, compared to 71% after polygraph exams.

The American Polygraph Association reports since 1980, eighty research projects have been published involving 6,380 polygraph examinations. Researchers conducted 12 studies on the validity of field examinations, following 2,174 field examinations, providing an average accuracy of 98%.

Over the last 25 years, the criminal justice system has witnessed a steady increase in the use of polygraph testing in adult sexual offenders for deterring reoffending behaviors (Abrams, 1989, 1991; Abrams & Ogard 1986; Edson, 1991; English, Pullen, & Jones 1996), overcoming denial of offending behaviors (Abrams, 1992; Priest & Smith, 1992) and verifying compliance with parole supervision conditions (Matte, 1996).

3. Across the State of Texas and other states in the nation, probation officers, parole officers, and sex offender treatment providers have recognized the utility of the polygraph in monitoring and treating the sex offender population. Because there are approximately 43,000 sex offenders on supervision in Texas, and limited supervision officers to monitor all their activities, the polygraph is an essential instrument in holding the offenders to the highest level of accountability.

### **Court Decisions**

In January 2003, the United States Court of Appeals for the Third Circuit ruled in the *U.S v. Albert Lee* No. 01-4485/4496, (3rd Cir. 2003) that the polygraph condition is reasonable related to the protection of the public, as well as the rehabilitation of the appellant. The polygraph testing could be beneficial in enhancing supervision and treatment of Lee.

Moreover, the polygraph condition does not involve greater deprivation of the appellant’s liberty than is reasonably necessary to achieve the purposes of protecting the public and rehabilitating the offender. Since the appellant is already directed to report periodically to the probation officer and provide truthful answers after he is released from imprisonment, the additional requirement that Lee undergo polygraph testing does not place a significantly greater demand on him

In *Owens v. Kelley*, 681 F2d 1362, 1370 (11th Circuit. 1982) the court stated that the polygraph test may deter the probationer “from violating the terms of his probation by instilling in him the fear of detection”.

### **Additional significant polygraph court rulings:**

*Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923)  
*Daubert v. Merrel Dow Pharmaceuticals*, 509 U.S. 579, 113 S. Ct. 2786 (1993)  
*Lumley v. Kansas*, WL 218704 Kan. (1999)  
*United States v. Lee*, No. 01-4485/4496, (3rd Cir. 2003)  
*United States v. Messina*, 131 F.3d 36 (2nd Cir. 1997)  
*United States v. Johnson*, 816 F.2d 918 (3rd Cir. 1987)  
*United States v. Posada*, 57 F.3d 428 (5th Cir. 1995)  
*United States v. Piccinonna*, 885 F.2d 1529 (11th Cir. 1989)  
*Schmerber v. California*, 384 U.S. 757 (1966)

## **Conclusion**

The polygraph is an effective intervention for eliciting admissions regarding sexual behaviors that no other process seems to elicit. These admissions are crucial to break down denial, facilitate offender accountability, and promote change in the therapeutic process. The implementation of sanctions and privileges is expected to encourage offenders to continue disclosing their sexual offending and high-risk behaviors (Ahlmeyer, Heil, McKee, and English 2000).

## **References**

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