

Importance of Polygraph

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.2nd 918 (3rd Cir. 1987)
United States v. Posada, 57 F.3rd 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

- Abrams, S., (1989) "Probation Polygraph Surveillance of Child Abusers". *The Prosecutor*, 22(3): p. 29-36
Abrams, S., Hoyt, D., & Jewel, C., (1991). "The effectiveness of the disclosure test with sexual abusers of children". *Polygraph*, 10, 192-203
Abrams, S., & Ogard, E., (1986) "Polygraph surveillance of probationers". *Polygraph*, 13(3): p. 174-182
Ahlmeyer, S., Heil, P., McKee, B., & English, K., (2000) "Impact of polygraph on admissions of victims and adult sexual offenders", p. 123-138
Cooley-Towell, Pasini-Hill, S., D. & Patrick, D., (2000) "The value of the post-conviction polygraph: The importance of sanctions", p. 6-19
English, K., Pullen, S., & Jones, L., (1996) "Managing adult sex offenders: A containment approach". Lexington, Kentucky: American Probation and Parole Association
Heil, P., Ahlmeyer, S., & Simons, D., (2003). "Crossover sexual offenses". *Sexual Abuse: A Journal of Research and Treatment*, Vol. 15, No. 4

Related Studies

Cybersex offender risk assessment: An exploratory study.

Buschman, J., Wilcox, D., Krapohl, D., Oelrich, M., & Hackett, S.
Journal of Sexual Aggression, 2010. 16, 197-209.

Abstract

Researchers interviewed 38 child pornography offenders, first in a standard clinical assessment and then as part of a polygraph examination. On clinical interview, 45% of the offenders admitted masturbating to child pornography, but all denied masturbating to images depicting sexual violence and all denied having any sexual contact with children. They also claim they were more likely to masturbate to depictions of adolescent than children younger than 13.

In contrast to the clinical interview, during the polygraph interview all of the offenders admitted masturbating to child pornography. They admitted that they were more likely to masturbate to images of young children (age 6 and under) than children between the ages of seven and 13 or adolescence. 45% admitted sexual contact with a child, for a total of 37 victims. Only three cases had been reported to police and none resulted in criminal prosecution. All were first-time offenders according to official records. These results show the discrepancy between what offenders are willing to admit in a clinical context versus what they might be willing to disclose under the threat of the second detection (putting aside the controversy about the validity of polygraph disclosures). (Seto, 2013, p.157; Buschman, Wilcox, Krapohl, Oelrich, & Hackett, 2010, Buschman & Bogaerts, 2009).

Polygraph testing leads to better understanding adult and juvenile sex offenders.

Hindman, Jan, Peters, James M.

Federal Probation, Vol 65(3), Dec, 2001. pp. 8-15.

Abstract:

Reviews several previously unpublished research studies conducted by J. Hindman on the impact of polygraphy on adult and juvenile sex offenders' self-reports of offenses and history of personal victimization before vs after treatment. Methodologies involved self-report with vs without polygraphy or mention of polygraphy, and self-report vs polygraphy in the same S. Areas discussed include the prevalence and effects of sexual abuse, early offender studies, the sex-offender-as-victim paradigm, the Oregon studies, the prosecutor's conditional immunity agreement, polygraphy and the therapeutic process, juvenile offenders, victim gender, judicial recognition of polygraphy, immunity for incriminating statements, negotiated pleas, and conditional immunity for previously undisclosed crimes. This research suggests that adults will lie and understate their number of sexual crimes and history as a juvenile offender, and will lie and overreport childhood sexual victimization.

Polygraph examination of British sexual offenders: A pilot study on sexual history disclosure testing.

Wilcox, Daniel T., Sosnowski, Daniel E.

Journal of Sexual Aggression, Vol 11(1), Jan, 2005. pp. 3-23.

Abstract:

In the UK, the use of the polygraph has only recently been given serious consideration as a means of facilitating the **assessment** and treatment of **sex offenders**. This pilot polygraph study on sexual history disclosure testing (SHDT) was the first of its kind undertaken in Britain. This application of the polygraph has shown merit as a means of obtaining additional information about past sexual offending behaviours. Fourteen **sex offenders** who were attending a Community **Sex Offender** Groupwork Programme (C-SOGP) were given SHDTs. Substantial increases in the numbers of admitted victims and offences were determined when comparing polygraph disclosure results with previously obtained data from all other sources available. In addition, the subjects reported earlier onset of offending and a wider range of paraphilic interests than had previously been reported. This suggested that collaboration amongst treatment, supervision and polygraph professionals could help to contain sexual offending behaviour more effectively, to improve and enhance public protection.

Post-conviction Sex Offender Polygraph Examination: Client-Reported Perceptions of Utility and Accuracy.

Kokish, Ron, Levenson, Jill S., Blasingame, Gerry D.,

Sexual Abuse: Journal of Research and Treatment, Vol 17(2), Apr, 2005. pp. 211-221.

Abstract:

Post-conviction polygraph testing of adult sex offenders in treatment has been a somewhat controversial subject. This study (n = 95 participants who took 333 polygraph tests) explored how sexual offenders enrolled in outpatient treatment programs perceived their polygraph experience. Participants reported a relatively low incidence of false indications of both deception (22 of 333 tests) and truthfulness (11 of 333) tests, suggesting that clients agreed with examiners' opinions 90% of the time. The majority of clients reported that polygraph testing was a helpful part of treatment. Finally, about 5% of participants reported that they responded to allegedly inaccurate accusations of deception by admitting to things they had not done. The data offer encouragement for continued but cautious use of polygraphs by sex offender treatment programs. Implications for practice and research are identified.

Sex offender management using the polygraph: A critical review.

Meijer, Ewout H., Verschuere, Bruno, Merckelbach, Harald L. G. J., Crombez, Geert.

International Journal of Law and Psychiatry, Vol 31(5), Oct, 2008. pp. 423-429.

Abstract:

Reducing recidivism is a central goal in the treatment of **sex offenders**. In Europe, there is an increased interest in using the polygraph ("lie detector") as a tool in the treatment and risk **assessment** of convicted **sex offenders**. This interest originated from optimistic reports by

American clinicians who argued that polygraph testing in the treatment of **sex offenders** is akin to urine analysis in the treatment of drug addiction. In this article, we critically examine the validity and utility of post-conviction **sex offender** polygraph testing. Our review shows that the available evidence for the claims about the clinical potential of polygraph tests is weak, if not absent. We conclude that portraying post-conviction polygraph testing as analogous to urine analysis is inaccurate, misleading, and ultimately, risky.

The empirical evidence for the value of post-conviction polygraph in the treatment and supervision of sex offenders.

Madsen, Lars, Wilcox, Daniel T.

The use of the polygraph in assessing, treating and supervising **sex offenders**: A practitioner's guide. Wilcox, Daniel T. (Ed.); pp. 49-64. Wiley-Blackwell, 2009. xxvi, 332 pp.

Abstract:

This chapter looks at the value of post-conviction polygraph in the treatment and supervision of **sex offenders**. The chapter begins with an overview of post-conviction polygraphy and moves to the use of polygraphy in the **assessment** of **sex offenders**; the use of polygraph in the monitoring of **sex offenders**; evidence from questionnaire studies; the bogus pipeline effect; confessions and false confessions; and accuracy.

Ethical practice in sex offender assessment: Consideration of actuarial and polygraph methods.

Vess, James.

Sexual Abuse: Journal of Research and Treatment, Vol 23(3), Sep, 2011. pp. 381-396.

Abstract:

The current generation of community protection laws represents a shift in priorities that may see the individual rights of **sex offenders** compromised for the goal of public safety. At the center of many judicial decisions under these laws are the risk **assessment** reports provided by mental health practitioners. The widespread enactment of laws allowing for additional sanctions for **sex offenders**, and a burgeoning research literature regarding the methods used to assess risk have served to heighten rather than resolve the ethical concerns associated with professional practice in this area. This article examines ethical issues inherent in the use of two **assessment** methods commonly used with **sex offenders** in the correctional context, focusing on actuarial measures and polygraph tests. Properly conducted and adequately reported actuarial findings are considered to provide useful information of sufficient accuracy to inform rather than mislead judicial decision makers, although careful consideration must be given to the limitations of current measures in each individual case. Despite its increasing use, polygraph testing is considered controversial, with little consensus regarding its accuracy or appropriate applications. On the basis of the current state of the professional literature regarding the polygraph, its use with **sex offenders** raises unresolved ethical concerns.

The use of tactical polygraph with sex offenders

Michael L. Bourke, Lance Fragomeli, Paul J. Detar, Michael A. Sullivan, Edward Meyle & Mark O'Riordan.

Journal of Sexual Aggression, 2014, pp.1-14

Abstract

Professionals who work with sexual abusers often are faced with a significant obstacle: offenders' failure to accurately report their histories of undetected offences, particularly hands-on crimes against children. The implications are significant and include poor risk assessment, misguided treatment planning, inadequate sentences, and insufficient supervision conditions. This problem is particularly important with so called child pornographers—offenders whose known criminality is limited to the Internet, and who may be reluctant to admit they have engaged in the hands-on abuse of children. The current study examines an investigative method that we refer to as tactical polygraph and describes its effectiveness in identifying previously undetected sexual offending

within this population. In our sample of 127 suspects with no known history of hands-on offending, only 4.7% admitted to sexually abusing at least one child. During polygraph procedures, an additional 52.8% of the study sample provided disclosures about hands-on abuse they perpetrated.