2012 APA Elections

Voting Instructions, pg. 5
Candidacy Statements, pg. 24
The LX5000 provides superior physiological data and the most advanced electrodermal solutions that have ever been available to polygraph examiners. Backed by hardware and software engineers with decades of experience, the LX5000 system offers a robust platform that stands apart from other systems, performing under the most demanding conditions. Our LX5000 is the most advanced and flexible polygraph system available today!

**LX5000 Hardware Features**

- Designed as a robust system that is significantly smaller in size, our basic LX5000 System records nine channels at a time, and provides you with many additional benefits including:
  - Data transfer rate up to 360 samples per second across all channels
  - 24-bit analog to digital conversion
  - Small, compact design making transport and storage easy
  - Can add up to 9 additional channels (18 total)
  - Extended measurement ranges
  - Selectable GSR or GSC channel
  - Dedicated PPG channel included
  - Durable, yet lightweight design
  - Operation with our proven, state-of-the-art LXSoftware
  - 3 year warranty and lifetime technical support

**LXSoftware v11.1 Features**

Windows®-based since 1994, our software offers unparalleled ease-of-use and proven reliability, and is Windows® 7 compatible. LXSoftware comes with POLYSCORE® and Objective Scoring System Scoring Algorithms, as well as, the following features:

- Updated User List and Audit Trail
- Ability to "Snap" an Individual Trace to Baseline
- Integrated Multi-Language Support for English, Spanish, and Russian languages
- Six EDA choices (GSR or GSC - manual, detrended, and automatic)
- Multi-Camera Support: will support up to 16 cameras, providing multiple views of the subject
- Customizable Personal History and Exam/Series forms
- Scripting Capability
- Save Polygraph Files and all other documents as PDF formats

sales@lafayetteinstrument.com
www.lafayettepolygraph.com
Phone: (765) 423-1505
Contributors to this issue

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Deadlines

This issue closed on July 1, 2012.


Submission of Articles

The APA Magazine is published by the American Polygraph Association. The mere publication of an article, news item, or notice in this Magazine does not constitute an endorsement by the American Polygraph Association. Advertising and Editorial address is APA Editor, P.O. Box 10411, Fort Jackson, SC 29207, USA. Subscription address is: APA, P.O. Box 8037, Chattanooga, TN 37414-0037. The APA Magazine is published 6 times per year and is available in electronic format only. Address and e-mail changes/updates should be sent to: APA, P.O. Box 8037, Chattanooga, TN 37414-0037, or manager@polygraph.org. E-mail notification is sent to subscribers when the latest publication is available. The APA webmaster is not responsible for issues not received because of improper address information. Submission of polygraph-related articles should be sent to: Don Krapohl, P.O. Box 10411, Fort Jackson, SC 29207 or Editor@polygraph.org.

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The truth of the matter is, administering a polygraph exam without insurance is reckless.

Professional and Personal Injury Liability
Optional Coverages Available:
  Interviewing
  Written Testing
  Private Investigation
  Background Checks
  Law Enforcement Polygraphs
General Liability (available in most states)
Election Announcement

The 2012 election of officers begins on Sunday, July 15th at 12:01 a.m. EST and will close on Saturday, July 21st at 11:59 p.m. EST. Members with email addresses already registered with the APA will receive email notification.

Voting members will use their last names as user ids, and those having email addresses on record with the APA National Office will be assigned passcodes they will receive by email. Those without email accounts on record with the APA National Office will need to contact the National Office to obtain a passcode (800-272-8037). You will be able to access the voting website through the Members Only section of the APA website.

If you have any questions, please contact Don Krapohl at editor@polygraph.org.

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P.O. Box 10411
Ft. Jackson, SC 29207
Editor@polygraph.org
GET TRAINED BY THE BEST

New England Polygraph Institute

- Accredited by the APA, CAPP, NHAPP and recognized by the AAPP
- One of only three schools in North America with a memorized pretest and a pretest booklet
- PEC 11-02 averaged 19 practical examinations during their 10 week Course
- Staffed by APA Certified Primary Instructors with over a century of law enforcement polygraph experience
- Housing and all course materials provided

Next Available Courses

SPRING 2012
Polygraph Examiners Course:
PEC 12-01
Feb. 20 - April 27

SUMMER 2012
PCSOT Course
APA Approved:
40 Hours
June 4 - June 8

FALL 2012
Polygraph Examiners Course:
PEC 12-02
Sept. 10 - Nov. 16

WANTED TO BUY: I am looking to buy a good used working analog instrument that someone is no longer using. Should you have one please e-mail me at micky.l.boettger.civ@mail.mil or call (573) 855-2674.

The 2012 APA Annual Awards

Don’t forget - this year it will be the membership of the American Polygraph Association who will elect by electronic ballot the nominee they feel is the most deserving of these awards. Nominations for awards must be submitted to the Awards Committee no later than July 15th, 2012. The submission letters, containing the name of the nominee along with a short statement regarding the rationale for this candidate’s nomination will appear on the APA website. The names of the candidates will then be posted and the membership will be asked to vote in the same fashion as our electronic election process. The votes will then be tallied by members of the Awards Committee and the results will remain confidential until the night of the 2012 Conference Banquet. All electronic votes must be in no later than August 16th, 2012.

For further information, or to submit an award nomination, contact the Awards Committee Chairperson, George Baranowski, at vpprivate@polygraph.org.
APA Offers Expert Testimony Video by F. Lee Bailey Complimentary to APA Affiliated Organizations

The APA Board of Directors, at the request of one of the APA’s affiliated state organizations, has approved providing a complimentary copy of the 2 DVD Set “Polygraph Evidence - Moot Court” and “Expert Witness Testimony” by F. Lee Bailey. These DVD’s were professionally filmed at a presentation to attorneys and examiners at the New Mexico Polygraph Association on February 17, 2011. The first disk is a moot court regarding admissibility and/or the evidentiary weight to be given polygraph results. Mr. Bailey, joined by APA General Counsel Gordon Vaughan, examined New Mexico polygraph examiner James Wilson and counsel made argument regarding both sides of this issue. The second disk is advice from Mr. Bailey on how to be an effective expert witness with emphasis on polygraph expert testimony.

These DVDs ordinarily sell for $100. The DVDs were used in a presentation on Polygraph Admissibility and Expert Testimony at last year’s APA Annual Seminar in Austin, Texas and in subsequent presentations at polygraph schools and seminars held by APA affiliated organizations. Comments by those who attended the seminar in New Mexico or who have viewed the discs have overwhelmingly endorsed them as helpful for examiners who are called on to testify regarding polygraph or who may anticipate the same.

Because of the number of available DVD sets and the cost of production, each APA affiliated organization may request one complimentary set for use by their organization. The request should be made by an officer of the affiliated organization to the APA National Office. Discs otherwise remain available for purchase from the National Office.
Look Closer...
You’re Not Just Buying a Polygraph

The best instrument delivers the best results

Untouchable quality with unbeatable pricing!

Polygraph Professional Suite™ Silver Solution
- 1 DataPac_USB™ high resolution 8-channel instrument
- 1 StingRay SE™ piezo electronic film countermeasure cushion
- 2 pneumatic respiration transducers
- 1 complete set of EDA electrodes (gold plated metal and silver/silver wet-gel electrodes)
- 100 disposable silver/silver wet-gel EDA electrodes
- 1 deluxe pneumatic blood pressure cuff with large sphygmomanometer (one size fits all)
- 1 FingerCuff pneumatic blood pressure cuff
- 1 ruggedized Pelican instrument case with custom padded divider set
- 1 OSS 1 & 2 scoring algorithms, courtesy of Donald Krapohl and Barry McManus
- 1 OSS 3 scoring algorithm, courtesy of Raymond Nelson, Donald Krapohl and Mark Handler
- 1 comprehensive printed and bound user manual and integrated video tutorials
- 3 year all-inclusive maintenance agreement
- 3 year DataPac_USB replacement warranty through overnight courier service
- Lifetime technical support

Customer Service 24/7
Online technical support is available 24/7 through our secure knowledge base. Quarterly program updates are available to customers on our dedicated, secure online server. Software when you want it, at your convenience.

Replacement Warranty
Be assured that all instruments include a three year replacement warranty. Our guarantee that any defective equipment will be replaced within 48 hours maximizes your profits and productivity.

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Credibility Assessment • Innovative Screening Solutions

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INTERNATIONAL: 011.613.634.2594
E-mail: sales@limestonetech.com

www.limestonetech.com
Polygraph Examiner Training Schedule

Academy for Scientific Investigative Training

Basic Examiner Course
September 17 - November 9, 2012

Advanced Polygraph
November 29-30 - 16, 2012

PCSOT
July 23 - 27, 2012
November 12 - 16, 2012

Advanced PCSOT
July 30 - 31, 2012

Academy of Polygraph Science

Basic Examiner Course
September 10 - November 2, 2012
January 7-March 1, 2013 (Fort Myers)
April 1-May 24, 2013 (Saint Louis)
September 16-November 8, 2013 (Fort Myers)

PCSOT
November 5-9, 2012
March 4-8, 2013 (Fort Myers)
November 11-15, 2013 (Fort Myers)

Examiner Refresher Course
November 26-30, 2012
March 11-15, 2013 (Fort Myers)
November 18-22, 2013 (Fort Myers)

Arizona School of Polygraph Science

Basic Examiner Course
September 24 - November 16, 2012
May 6, 2013 - June 28, 2013

Backster School of Lie Detection

Basic Examiner Course
September 10 - November 2, 2012

PCSOT
August 20 - 24, 2012

Advanced PCSOT

Annual Polygraph Examiner Work Conference
December 3 - 7, 2012

Marston Polygraph Academy

Basic Examiner Course
August 6 - October 3, 2012

Maryland Institute of Criminal Justice

Basic Examiner Course
September 17 - November 9, 2012

PCSOT
November 12 - 16, 2012

National Center for Credibility Assessment

Basic Examiner Course
August 14 - November 15, 2012

New England Polygraph Institute

Basic Examiner Course
September 10 - November 16, 2012

Veridicus International Polygraph Academy

Basic Examiner Course
February 4 - April 12, 2013

Attention School Directors
If you would like to see your school’s course dates listed here, simply send your upcoming course schedule to editor@polygraph.org.
Welcome to CPSpro Fusion

Intuitive. Powerful. Easy to Use.

Designed from the ground up, CPSpro Fusion is loaded with innovative and powerful new features which will provide you with all the tools necessary to efficiently and reliably conduct, score, and report polygraph examinations. The elegant and intuitive user interface is so simple and transparent that you can navigate with extreme ease. Virtually all functions and actions can be accomplished with a single click at any point in the program.

Fusion’s User Interface Provides a Powerful, Efficient and Intuitive Experience

Click on our new Quick Access Icons to create a New Subject, display the Subject List of stored subjects from which to select, or open the Question Editor to create a new question list, or select a question list, from the library of stored question lists.

Simply put, the CPSpro is the most advanced and easy-to-use polygraph system available.

The new CPSpro combines the unparalleled accuracy of Stoelting’s polygraph hardware with our all-new state-of-the-art Fusion software. Designed from the ground up, CPSpro Fusion is loaded with innovative and powerful new features which will provide you with all the tools necessary to efficiently and reliably conduct, score, and report polygraph examinations.

When your reputation is on the line, and the truth is the only thing that matters, you can be confident that the CPSpro provides you with the tools to make the right call. Let CPSpro put science on your side…

Scan this QR code with your smartphone to go directly to our website
Upcoming Seminars

The second annual Tri-State Training Seminar will take place at the Omni Hotel in downtown Charlotte, North Carolina on August 20-21. The Tri-State Training Seminar is a collaboration of the North Carolina Polygraph Association (NCPA), Georgia Polygraph Association (GPA), and South Carolina Association of Polygraph Examiners (SCAPE). Room rates for those registering by July 20th is $97 per night + tax. For reservations, call 1-800-The Omni (1-800-843-6664) and mention The North Carolina Polygraph Association. The seminar registration fee for GPA, NCPA and SCAPE members registering by July 20th is $75, and $125 after that date. For non-members, the seminar fee is $125 for those registering by July 20th, and $175 after July 20th. Speakers are: AAPP Treasurer and Las Vegas Metro Polygraph Unit Supervisor, Gordon Moore; GPA President and Roswell Police Dept. Internal Affairs Investigator Joel Montezinos; and retired Virginia State Police polygraph examiner Wyatt Omohundro. To register for this seminar, contact NCPA Secretary/Treasurer Diane Chapin at (252) 675-8523 or by e-mail at northcarolinapa@aol.com. For information about SCAPE contact Nate Brooks at 864-467-5480 or e-mail him at: nbrooks@greenvillecounty.org

The Indiana Polygraph Association (IPA) is holding its 2012 Fall Seminar at the Indiana State Police Post at 8620 E. 21st St., Indianapolis (Near I-70 and Post Rd). It will take place on October 5th at 8:30 am. The featured speaker, Mr. Raymond Nelson, is an APA Director and a well published researcher. Mr. Nelson will present on the APA Meta-Analysis and on PCSOT. The seminar is free to IPA members and $100 for non-members. For more information, contact Delmer Gross at 812-246-5424 (dgross@isp.in.gov), Sid Newton at 317-921-5336 (snewton@isp.in.gov) or Larry Koebcke at 219-696-6242 (lkoebcke@isp.in.gov).

New Jersey Polygraphists 2012 training seminar will be held at the Trump Plaza Hotel and Casino in Atlantic City, October 10-12, 2012. Speakers will be Dr. John Kircher and Pam Shaw. For more information visit our website www.njpolygraph.net, email NJP at Callmps@aol.com or call 973-931-2028.

The Missouri Polygraph Association is sponsoring the 2012 Tri-State Polygraph Examiners Seminar on October 15-17 at the Branson (MO) Hilton Promenade at Branson Landing. For room reservations, go to www.hilton.com or link through www.missouripolygraph.com, and use group code MPA. Group rate begins at $119.00 plus taxes. Rooms and rates are guaranteed until September 14, 2012, and the rates are good for three days before and after. Capt Walt Goodson, Vice President Law Enforcement for the APA, will speak on the Empirical Scoring System, APA Valid Methods and Standards, and Countermeasures. APA Board Chairman Nate Gordon will present on Interview and Interrogation. The seminar fee before September 15th for members of the Kansas Polygraph Association, Missouri Polygraph Association, and the Nebraska Association of Polygraph Examiners is $150, and for non-members it is $175. After September 14th add $25. For more information, contact Det. Derek Piasecki at (314) 560-3378.

The APA and Virginia Polygraph Association (VPA) will co-sponsor a continuing education seminar on November 8-9, 2012 at the Hilton Virginia Beach Oceanfront, 3001 Atlantic Avenue, Virginia Beach, VA 23451. On November 7, 2012 the APA will offer a one-day PCSOT Continuing Education Seminar at the same location. Seminar information and registration forms can be found on pages 21-23 of this issue.
COME JOIN US
TUESDAY EVENING
SEPTEMBER 18, 2012

DINNER CRUISE

SOUTH OF THE BORDER BUFFET

Tri Color Tortilla Chips with Homemade Salsa
Classic Mexican Caesar Salad
Grilled Chicken, Beef & Vegetarian Fajitas
(Guacamole, Grated Cheeses, Sour Cream, Black Olives,
Shredded Lettuce, Green Onions, Fresh Tortillas)
Spicy Serrano Mexican Slaw
Sonora Refried Beans
Spanish Rice
Fresh Baked Cookies, Chocolate Brownies & Churros
$30 per person (discounted price)

BOARD AT 5:30 PM
DISEMBAK 8:00 PM

Please detach and return to the APA National Office, P O Box 8037, Chattanooga, TN 37414 (email: manager@polygraph.org
fax: 423-894-5435 phone: 1-800-272-8037)

Name: __________________ _____  # Tickets:_____
Credit Card:__________________________ (Visa, MasterCard, American Express)
Exp: ____________  CVV2:_________
ADVANCED RESERVATION REQUIRED

AMERICAN POLYGRAPH ASSOCIATION
HILTON SAN DIEGO BAYFRONT, ONE PARK BOULEVARD, SAN DIEGO CA 92101

(All room reservations must be made individually through the Hotel’s reservation department by calling 1-800-445-8667 (Ask for the group rate for APA)

**APA FED ID # 52-1035722**

Plan now to attend the APA 47th Annual Seminar/Workshop,
**SEPTEMBER 16 – 21, 2012**

**Room rate:** $133.00 Single/Double occupancy, plus taxes (currently $16.78 tax) ($149.78 for one night) SELF PARKING - $10.00 PER/DAY

All reservations must be guaranteed by a major credit card or advance deposit in the amount of one night’s lodging. Reservations not guaranteed will be automatically cancelled at the cut-off date.

**CUTOFF DATE** for hotel reservations is **08/14/12** or until APA’s room allotment is fulfilled. Number of rooms is **limited**. Individual departure dates will be reconfirmed upon check-in. (**72 HOUR CANCELLATION**)

Seminar Chair: Robbie S. Bennett – 800/272-8037, 423/892-3992 FAX: 423/894-5435
Seminar Program Chair: Michael C. Gougler-512-466-0471

Registration Hours – Sunday, 9/16/12 (10:00 am-6:00 pm)
On-Site–Monday, 9/17/12 (8:00 am -12:00 Noon)
Seminar Sessions–Monday-Friday, 9/17/12 – 9/21/12

**Complete the form below, attach check, VISA, MC or AE information payable to the APA and mail to:**
APA National Office, PO Box 8037, Chattanooga, TN 37414-0037
Or FAX to: 423/894-5435
to arrive **no later than 08/31/12** for applicable discount. Payment information and registration received after 08/31/12 will be charged the on-site fee.

NAME
ADDRESS
CITY/STATE ZIP
NAME OF GUEST(S)
NAME BADGE (CALLED BY)
CHILDREN/AGES
GUEST (CALLED BY)

**PRE PAID BY AUGUST 31, 2012**
$350 – Member/Applicant
$350 – CAPE Members
$475 – Member/App/ W/Guest
$125 – Additional Guest
$500 – Non-Member
$625 – Non-Member W/Guest

ADDITIONAL $50.00 FOR WALK-INS

**FEE RECEIVED AFTER AUGUST 31, 2012**
$400 – Member/Applicant
$400 – CAPE Members
$525 – Member/App W/Guest
$175 – Additional Guest
$550 – Non-Member
$675 – Non-Member W/Guest

**ADDITIONAL $50.00 FOR WALK-INS**

*GUEST FEE includes APA SPONSORED EVENTS: Reception, Guest Breakfast and Banquet.

*YOUR NAMETAG IS YOUR ADMISSION TICKET TO ALL EVENTS AND ACTIVITIES. PLEASE WEAR IT AT ALL TIMES DURING THE CONFERENCE.

DATE OF ARRIVAL ______________________ DATE OF DEPARTURE ______________________

VISA ( ) MC ( ) AE ( ) __________________________ (CVV2) EXP: __________
(CVV2 is a 3 digit number found on the back of your VISA or MC card or a 4 digit number on the front of the AE). 2012

SIGNATURE ___________________________ 2012

### APA Cancellations Refund Policy:
Cancellations received in writing prior to **08/31/12** will receive a full refund. Persons canceling after **08/31/12** will not receive a refund but will be provided with the handout material.

**CONTINUING EDUCATION IS VITAL TO YOUR SUCCESS AND SHOULD BE A LIFELONG PURSUIT**

**Tax Deductions:**
All expenses of continuing education (including registration fees, travel, meals and lodging) taken to maintain and improve professional skills are tax deductible subject to the limitations set forth in the Internal Revenue Code.

**DINNER CRUISE**
TUESDAY SEPTEMBER 18
BOARD 5:30 PM
DISEMBARK 8:00 PM

South of the Border Buffet: Chips, Salsa, Classic Mexican Caesar Salad, Grilled Chicken, Beef & Vegetarian Fajitas (Guacamole, Grated Cheeses, Sour Cream, Black Olives, Shredded Lettuce, Green Onions, Fresh Tortillas), Spicy Serrano Mexican Slaw, Sonora Refried Beans, Spanish Rice, Cookies, Brownies, Churros

# Tickets @ $30.00 =

BUSINESS PHONE ____________________________

DATE OF ARRIVAL___________________ DATE OF DEPARTURE__________________________

SIGNATURE______________________________________________________________________2012
The American Polygraph Association presents the 47th Annual Seminar/Workshop “Enhancing Performance”

September 16 - 21, 2012
Hilton San Diego Bayfront
San Diego, California

Michael C. Gougler, Chair

SUNDAY, September 16, 2012

CLASSROOM D

1:00 – 5:00

PCSOT Sexual History and Maintenance Examinations

David Robinson, PhD
### Opening Ceremonies

- **Call to Order** – Pam Shaw, APA President
- **Master of Ceremonies** – Michael C. Gougler, Director
- **Presentation of Colors** – San Diego Police Department
- **The National Anthem** – Det. Gary Hassen
- **Pledge of Allegiance** – Nathan J. Gordon, APA Board Chairman
- **Taps** – Richard J. Pasciuto
- **Welcome from CAPE President** – Barry Cushman
- **Welcome to San Diego, CA** – Chief, William Lansdowne, San Diego Police Department

### General Session: Validated Techniques Update – Raymond Nelson

9:00 – 9:15 Break Sponsored by:

### Lunch (On Your Own)

9:15 am – Noon

### 9:00 – 9:15 Break Sponsored by:

### 2:45 – 3:00 Break Sponsored by:

### APA Issues in the Different Fields of Polygraph

#### 5:00 – 6:00

<table>
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<tr>
<th>CLASSROOM A</th>
<th>CLASSROOM B</th>
<th>CLASSROOM C</th>
<th>CLASSROOM D</th>
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<td><strong>PRIVATE</strong></td>
<td><strong>GOVERNMENT</strong></td>
<td><strong>LAW ENFORCEMENT</strong></td>
<td><strong>INTERNATIONAL</strong></td>
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<td>Nathan J. Gordon</td>
<td>William (Bill) Gary</td>
<td>Pamela K. Shaw</td>
<td>Frank Horvath, Ph.D</td>
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<td>George Baranowski</td>
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<td>Chad Russell</td>
<td>Department of Defense</td>
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<td>Vickie T. Murphy-Carr</td>
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<td>Barry Cushman</td>
<td>and</td>
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<td>Charles E. Slupski</td>
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<td>Walt Goodson</td>
<td>APA School Requirements</td>
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<td>Raymond Nelson</td>
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<td>for Spanish Speaking</td>
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<td>Michael C. Gougler</td>
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<td>Marty Oelrich</td>
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<td>7:30 AM</td>
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<td>Coffee Break</td>
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| 8:00 – 12:00 | Classroom A | Eliciting Information in the Pre-Test Interview | Stanley Slowik  
              |                 | Evergreen, Colorado | |
| 8:00 – 10:00 | Classroom B | EDA Monitoring: A Fresh Look at an Old Idea | Donald J. Krapohl  
              |                 | APA Editor | |
| 10:00 – 12:00 | Classroom C | Psychopaths Can Beat the Polygraph | Michael Lynch  
              |                 | Marston Academy of Polygraph | |
| 9:45 – 10:00 |          | Break Sponsored by:                                                               |
| 12:00 – 1:00 |          | Lunch (On Your Own)                                                              |
| 1:00 – 3:00 | Classroom A | Blind Acquaintance Test: Advantage Law Enforcement | Chad Russell  
              |                 | APA Treasurer | |
| 1:00 – 3:00 | Classroom B | Examinee Suitability                                                              | Marty Oelrich  
              |                 | APA Director | |
| 1:00 – 3:00 | Classroom C | Evaluation of Polygraphic Data: Comments on Assumptions and Practices | Frank Horvath, PhD  
              |                 | Department of Defense | |
| 3:00 – 5:00 | Classroom A | APA ANNUAL BUSINESS MEETING | |
| 6:30 AM    |          | STATE LEADERSHIP BREAKFAST                                                        |
| 7:30 AM    |          | Coffee Break                                                                      |
| 8:00 – 12:00 |          | Lunch (On Your Own)                                                              |
| 9:45 – 10:00 |          | Break Sponsored by:                                                               |
| 10:00 – 12:00 |          | Federal ZCT                                                                      | Charles E. Slupski  
              |                 | APA Director | |
| 12:00 – 1:00 |          | Lunch (On Your Own)                                                              |
| 1:00 – 3:00 |          | Evaluation of Polygraphic Data: Comments on Assumptions and Practices | Frank Horvath, PhD  
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| 1:00 – 3:00 |          | Evaluation of Polygraphic Data: Comments on Assumptions and Practices | Frank Horvath, PhD  
              |                 | Department of Defense | |
| 3:00 – 5:00 |          | APA ANNUAL BUSINESS MEETING | |

**DINNER CRUISE**

**SOUTH OF THE BORDER BUFFET**

**MEET AT THE REAR OF HOTEL - 5 PM**

**BOARD - 5:30 PM**

**DISEMBARK - 8:00 PM**
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<tr>
<th>CLASSROOM A</th>
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<tr>
<td>Countermeasures</td>
<td>PCSOT Test Question Formulation and Testing within Domestic Violence Programs</td>
<td>Polygraph and the Law of Confessions</td>
<td>10:00 – 12:00</td>
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<td>Chad Russell</td>
<td>Charles E. Slupski</td>
<td>Gordon L. Vaughan</td>
<td>NAS Update</td>
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<td>APA Treasurer</td>
<td>APA Director</td>
<td>APA General Counsel</td>
<td>Marty Oelrich, APA Director</td>
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<td>and Robert Lundell, Chair,</td>
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<td>Barry Cushman, APA President</td>
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<td>APA PCSOT Committee</td>
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<td>9:45 – 10:00 Break – Sponsored by:</td>
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<td>12:00 – 1:00 Lunch (On Your Own)</td>
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<td>Federal TDA</td>
<td>Maximizing the Pre-Test Interview</td>
<td>The PCSOT Interview</td>
<td>Barry Cushman, APA President</td>
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<td>William (Bill) Gary</td>
<td>T.V. O’Malley</td>
<td>Raymond Nelson</td>
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<td>APA V.P. Government</td>
<td>APA Past President</td>
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<td>POLYGRAPH INSTRUMENTS WORKSHOP</td>
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<td>LAFAYETTE SYSTEMS</td>
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<td>STOELEING SYSTEMS</td>
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<td>Bruce White</td>
<td>Chris Fausett</td>
<td>Jamie Brown</td>
<td>Shawn Edwards</td>
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## THURSDAY, September 20, 2012

### 7:30 AM – 8:00 AM
- Coffee Break

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<tr>
<td><strong>Inside the Mind of the Sex Offender</strong></td>
<td><strong>Emerging Technologies</strong></td>
<td><strong>Where Did I Go Wrong?</strong></td>
<td><strong>School Inspector’s Training</strong></td>
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<td>Troy Timmons, MA Amarillo, Texas</td>
<td>Jennifer Vendemia University of South Carolina</td>
<td>Skip Webb U.S. Army CID</td>
<td>William “Bill” Gary APA VP Government</td>
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### 9:45 – 10:00
- Break – Sponsored by

### 12:00 – 1:00
- Lunch (On Your Own)

### 1:00 – 5:00
- **E.S.S. Empirical Scoring System**
  - Mark Handler AAPP Research Committee
- **DLST**
- **R&I Screening Technique**
  - Dale Austin NCCA

### 2:45 – 3:00
- Break – Sponsored by:

### 3:00 – 5:00
- **E.S.S. Empirical Scoring System (Cont’d)**
  - Mark Handler AAPP Research Committee
- **Utah Technique**
- **Global Analysis**
  - Dale Austin NCCA

### 6:30 pm BANQUET
- **Darlene Ellison – Keynote Speaker**
  - Award-Winning Author of “The Predator Next Door”
### FRIDAY, September 21, 2012

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<th>Time</th>
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<tr>
<td>8:00 – 10:00</td>
<td><strong>False Confessions</strong></td>
<td><strong>Questions and Answers</strong></td>
<td><strong>Darlene Ellison</strong></td>
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<td>Mark Handler</td>
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<td>AAPP Research Committee</td>
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<td>“The Predator Next Door”</td>
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<td>Dale Austin</td>
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<td>10:00 – 12:00</td>
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<td><strong>Ethics</strong></td>
<td><strong>Middle East Culture</strong></td>
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<td>Dale Austin</td>
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<td>Nia Ackvan</td>
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<td><strong>Lunch (On Your Own)</strong></td>
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<td>1:00 – 3:00</td>
<td><strong>A Case Study in Ethics</strong></td>
<td><strong>Semi-Structured Interviewing</strong></td>
<td><strong>Middle East Culture</strong></td>
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<td>Past APA VP Private</td>
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<td>3:15</td>
<td><strong>CLOSING REMARKS</strong></td>
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<td>APA President, Barry Cushman</td>
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THE AMERICAN POLYGRAPH ASSOCIATION (APA)
CONTINUING EDUCATION SEMINAR
HILTON VIRGINIA BEACH OCEANFRONT, VA
WEDNESDAY, NOVEMBER 7, 2012
ADVANCED REGISTRATION IS REQUIRED

APA FED ID # 52-1035722

WEDNESDAY
NOVEMBER 7, 2012
8:00 AM - 5:00 PM
LODGING
HILTON VIRGINIA BEACH OCEANFRONT
3001 ATLANTIC AVENUE
VIRGINIA BEACH VA 23451
ROOM RATE: $89.00 S/D- PLUS 13% TAX
To make Hotel Reservations:
CALL : 1-800-445-8667 or 757/213-3000
Individual Reservations - Cut-off date: 10/08/12

ONE DAY ONLY
$50.00
PRE-PAID BY OCTOBER 20, 2012

**
** ADVANCED REGISTRATION REQUIRED
1-800-272-8037 OR 423-892-3992
FAX 423/894-5435

**IN ORDER TO HAVE ADEQUATE
SEATING, ADVANCED REGISTRATION
IS REQUIRED**

CONTINUING EDUCATION
_________ SEMINAR_________
POST CONVITION SEX OFFENDER
TESTING (PCSOT)

CONTINUING EDUCATION CREDITS
When you attend this seminar, you receive up to 8 CEUs
(Continuing Education Units) of continuing education credit
approved by the American Polygraph Association and the Federal
Certification Program for Continuing Education and Training.

CANCELLATION AND REFUND POLICY:
Cancellations received, in writing, before October 20,
2012, will receive a full refund. Persons canceling after October
20, 2012, will not receive a refund but will be provided with the
handout material.

TAX DEDUCTIONS
All expenses of continuing education (including
registration fees, travel, meals and lodging) taken to maintain
and improve professional skills are tax deductible subject to the
limitations set forth in the Internal Revenue Code.

CONTINUING EDUCATION IS VITAL TO YOUR
SUCCESS AND SHOULD BE A LIFELONG PURSUIT

TO REGISTER FOR THE SEMINAR, PLEASE COMPLETE AND MAIL THIS FORM TO:
APA NATIONAL OFFICE, P.O. BOX 8037, CHATTANOOGA, TN 37414-0037
OR FAX IT TO 423-894-5435

Print Legibly or Type the Following

NAME: __________________________________________    BUSINESS PHONE: __________________________

ADDRESS: ____________________________________________________________________________________

NAMETAG-CALLED BY: ________________________________________________________________

( ) CHECK MADE PAYABLE TO: AMERICAN POLYGRAPH ASSOCIATION IS ENCLOSED

( ) CHARGE $___________ TO MY: ( )VISA ( )MASTERCARD ( )AE

NUMBER ____________________________ EXP. __________________

SIGNATURE _________________________________________________________________

CES-Virginia Beach, VA (11/7/12) (We can’t possibly reach everyone who would be interested in taking part in this seminar. Please help us by making photocopies of this page for your co-workers and business associates. Thanks for your assistance) (2012)
### CONTINUING EDUCATION SEMINAR:

**VALIDATED TECHNIQUES**  
**INTERNET-PRE TEST**  
**ETHICS/LEGAL UPDATE**

### CONTINUING EDUCATION CREDITS

When you attend this seminar, you receive up to 16 CEUs (Continuing Education Units) of continuing education credit approved by the American Polygraph Association and the Federal Certification Program for Continuing Education and Training.

### CANCELLATION AND REFUND POLICY:

Cancellations received in writing before OCT 20, 2012 will receive a full refund. Persons canceling after OCT 20, 2012 will not receive a refund but will be provided with the handout material.

### TAX DEDUCTIONS

All expenses of continuing education (including registration fees, travel, meals and lodging) taken to maintain and improve professional skills are tax deductible subject to the limitations set forth in the Internal Revenue Code.

(The registration fee includes professional instruction, seminar materials, AM and PM Refreshment Breaks).

### CONTINUING EDUCATION IS VITAL TO YOUR SUCCESS AND SHOULD BE A LIFELONG PURSUIT

### ADDITIONAL $50.00 FOR WALK-INS

**ADVANCED REGISTRATION REQUIRED**

**IN ORDER TO HAVE ADEQUATE SEATING, ADVANCED REGISTRATION IS REQUIRED.**

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** TO REGISTER FOR THE SEMINAR, PLEASE COMPLETE AND MAIL THIS FORM TO:**  
APA NATIONAL OFFICE, P.O. BOX 8037, CHATTANOOGA, TN 37414-0037  
OR FAX IT TO 423-894-5435

Print Legibly or Type the Following

**NAME:** __________________________________________  **BUSINESS PHONE:** ________________________

**ADDRESS:** ____________________________________________________________________________________

**NAME TAG-CALLED BY:** __________________________________________________________________________

(   ) CHECK MADE PAYABLE TO: AMERICAN POLYGRAPH ASSOCIATION IS ENCLOSED

(   ) CHARGE $____________ TO MY: (   )VISA (   )MASTERCARD (   )AE

BE SURE TO INDICATE THE CVV2 CODE. IT IS THE 3 DIGIT CODE ON THE REVERSE SIDE OF VISA/MASTERCARD OR 4 DIGIT NUMBER ON FRONT OF AMERICAN EXPRESS CARD.

_________________________________________CVV2________EXP. _____________

**SIGNATURE** __________________________________________

**CES-Virginia Beach, VA (Nov 8-9, 2012)** We can’t possibly reach everyone who would be interested in taking part in this seminar. Please help us by making photocopies of this page for your co-workers and business associates. Thanks for your assistance. 2012
TRAINING LOCATION
HILTON VIRGINIA BEACH OCEANFRONT
3001 ATLANTIC AVENUE
VIRGINIA BEACH, VA 23451

SCHEDULE

THURSDAY, NOVEMBER 8, 2012

8:00 AM – 8:15 AM
OPENING CEREMONIES
ALAN MOORE
PRESIDENT VPA

8:15 AM – 5:00 PM
VALIDATED TECHNIQUES
MICHAEL C. GOUGLER
APA DIRECTOR

9:30 AM – 9:45 AM
BREAK

12:00 NOON – 1:00 PM
LUNCH

2:30 PM – 2:45 PM
BREAK

5:00 PM
REVIEW OF DPOR AND VIRGINIA STATE REGULATIONS
SPEAKER: MEMBER OF THE VPA

ANNUAL VIRGINIA POLYGRAPH ASSOCIATION MEETING

FRIDAY, NOVEMBER 9, 2012

8:00 AM – 12:00 NOON
NON-VERBAL EXPRESSION (MICRO-EXPRESSIONS)
PSYCHOLOGICAL PROFILING AND SOCIAL INFLUENCE
LANCE FRAGOMELI, FBI AGENT/POLYGRAPH EXAMINER

9:45 AM – 10:00 AM
BREAK

12:00 NOON – 1:00 PM
LUNCH

1:00 PM – 5:00 PM
ETHICS/LEGAL UPDATE
GORDON L. VAUGHAN, ESQ.
APA GENERAL COUNSEL

2:45 PM – 3:00 PM
BREAK

NOTE: “The presentations of the speakers and the materials at this seminar are designed to provide general information on the seminar topics presented in an effort to help polygraph professionals maintain their professional competence. The views of the speakers and contents of the materials presented have not been approved by the Board of Directors of the American Polygraph Association (APA) and, accordingly, should not be construed as representing the policy of the American Polygraph Association. The presentations and materials provided at this seminar are provided with the understanding that the APA is not engaged in rendering professional or legal services.”
Candidate Statements for the 2012 Election of APA Board Officers

Elections will be held electronically this year from July 15 through July 21. There are six open offices: President Elect, Vice President Government, Vice President Law Enforcement, Vice President Private, Director 1, Director 2, and Director 4. Nine qualified APA members have notified the APA National Office of their candidacy for these offices. Each candidate was invited to submit a statement of up to 500 words for publication. Below are the statements organized by office, listed in alphabetical order by last name.

Candidate for President-Elect (1)

Charles (Chuck) Slupski

I submit myself to the membership for consideration as President Elect of the American Polygraph Association (APA) and I ask for your vote.

My specific goals as President Elect and ultimately President of the APA include:

1. continuing the professionalization of polygraph by adding to our evidence based principles and practices, which will enhance our favorable reputation in the eyes of other professions, legislatures and the world at large, while maintaining a necessary balance between science and utility;
2. improving examiner initial and continuing education opportunities at reduced costs by taking advantage of web based technologies and instructional systems that deliver to those not physically on-site, i.e., distant learning, and, maintaining a basic core curriculum consistent with best practices;
3. increasing a positive polygraph awareness and truthful voice stress analysis information to those involved in state and national legislative activities;
4. advancing a current, achievable and fiscally responsible APA management program and strategic plan;
5. expanding voluntary specialty testing and certification programs beyond Post-Conviction Sex Offender Testing (PCSOT) to include at a minimum evidentiary/paired testing, quality control activities, and language specific certifications; and,
6. intensifying communications to strengthen relationships with police, sheriffs, corrections, and other polygraph utilization organizations.

During my 28.5 year polygraph career, I served as an examiner with the Army CID, instructor with the Department of Defense Polygraph Institute, examiner with a State Department of Corrections, and as a private examiner and instructor with the Argenbright and American International Institutes of Polygraph. Additionally, I have conducted hundreds of quality control reviews of polygraph examinations, have testified as an expert witness, and continue to conduct examinations in support of Law Enforcement and government agency internal affairs investigations.
Having recruited hundreds of new members to the APA, I have also served the APA as a Vice President, a Director, and on numerous committees including PCSOT, membership, international liaison, educational accreditation, standards of practice, and quality control. Documented results of individual and committee efforts include the PCSOT Operational and Model Policies with certification exams, the Law Enforcement / Public Service Pre-employment Screening model, the Quality Control policy, the Continuing Education policy, and the new Model Policy for Release and Management of Polygraph Reports and Polygraph Data.

As an APA Board member, I brought attention-to-detail in standards and program development, exercised what I believe was sound judgment, examined all expressed sides of issues before making decisions, was open to all voices, and above all else, acted with integrity. As President, I would expect and require all Board and Committee members to do likewise.

With your vote, we can continue to support and advance proper and effective APA initiatives, putting the membership and the polygraph profession above personal advancement; and, we can encourage comprehensive discussion to increase the probability that decisions by the Board of Directors are well thought out, and are for the good of our association and the larger polygraph profession.

Thank you for your time, consideration and possible vote of confidence.

Candidate for Vice President Government (1)

Robert Peters

I am a very fortunate person. Polygraph provided my income for most of my adult life. It made it possible for me to work on significant matters. It enabled me to meet fascinating individuals from around the world. Polygraph enabled me to travel to many special places and participate in rewarding endeavors. I would like to repay the polygraph profession, the American Polygraph Association (APA), and the Federal polygraph community in particular by serving as the APA Vice-President Government.

For most of the preceding 30 years I served as a polygraph examiner for the Central Intelligence Agency (CIA). In my final ten years with CIA, I was the chief of quality assurance. In that capacity I had the final authority on all agency examinations. I oversaw the training and continuing education of all examiners. I managed the polygraph research program and all technical systems utilized by the agency polygraph program. During my prior years, I administered many exams in the support of the agency’s mission. I served as a research officer on efforts to enhance the effectiveness of polygraph testing. I was an instructor in the CIA Polygraph School. I gave presentations on polygraph issues, at the Federal Government’s annual interagency seminar, at the APA Annual seminar, at the Federal Program Managers meetings and before numerous groups and federal training programs. I authored articles published in the
“Journal of the American Bar Association,” “Security Management Magazine”, and “Polygraph, the Journal of the APA”.

During my 40 years of membership, the APA grew in many ways. If selected as Vice-President Government, I will do whatever I can to ensure continued growth and advancement of the association. I will be specifically focused on ensuring a close and positive liaison between APA leadership and the federal polygraph community. I will encourage the members of the federal community to expand their support of the APA whenever possible and appropriate. Finally, I will do everything possible to guarantee that APA’s premiere activity, the annual APA Seminar, is an exceptionally positive experience for all who attend.

My training and experience will enable me to make a significant contribution to the APA. I will be very appreciative of your support of my candidacy for office of Vice-President Government.

Candidates for Vice President Law Enforcement (2)

Walt Goodson

My name is Walt Goodson and I thank you for your past support. Again, I ask for your vote as I seek re-election to the office of Vice President, Law Enforcement.

During my 20 year career, I have served as a correctional officer, trooper, SWAT team member, investigator, supervisor and polygraph examiner. As a member of the Texas Department of Public Safety (DPS), I have worked continuously over the last 11 years as an examiner, quality assurance supervisor and Director of the Texas DPS Polygraph School. Currently, I’m assigned to oversee my department’s promotional system where I manage promotions and employment screening for an agency of over 8000 members. I also serve as Director and am a Past-President of the Texas Association of Law Enforcement Polygraph Investigators and have chaired and served on a number of APA committees. I have also been fortunate to meet many of our members through the presentation of polygraph topics for professional seminars and advanced training courses across the US. From these experiences, I understand that we as professional examiners want unambiguous training, clearly defined professional standards and support when we need a hand.

I consider my first term as VP a success and feel the APA has experienced success through improved seminars, dedicated committee work and its support of polygraph research. Part of this support of research, which I feel is vital to the growth of our profession, is the APA’s support of the meta-analysis of known polygraph research. APA members have always enjoyed a reputation of high standards of ethics and practice grounded in science based practices; therefore, I will continue to support this growing body of research to include more valid techniques and methods.
To know me is to know that my goals will never change. I will continue to support practices that maximize the effectiveness of the polygraph without compromising the use of this vital public safety tool. Thus, I will continue to work to ensure the APA provides resources such as reasonable, science based model policies and standards of practice and quality training that fosters valid, reliable exams.

In the past, the APA has compromised training and seminar quality due to its reluctance to offer quality training courses with high corresponding fees. The APA is financially solvent and it’s my position that we should use the resources necessary to attract the best trainers that further improve our skill. If re-elected, I will improve our seminars as well as sponsored and online training through the attraction of the best and brightest instructors in an effort to offer a variety of the highest level of specialized training available.

I do wish to continue serving the APA with the goals of representing the association in the most ethical and professional manner possible and helping our members succeed in protecting the public. I again ask for your vote for Vice President, Law Enforcement. Thanks for your consideration and I hope to see you in San Diego.

Delmer A. Gross

I am respectfully asking for your vote as Vice-President of Law Enforcement with the American Polygraph Association. Allow me to share my plan for this position. My efforts as Vice-President of Law Enforcement will be to promote the advancements in polygraph, interviewing, and confession evidence. I will be active in the progression of polygraph toward scientific acceptance. I want to represent law enforcement examiners to ensure that what we do and publish can be defended in court or any other forum. Where else is polygraph scrutinized more frequently than in court, with such high stakes? I hold that continual training in both polygraph and interviewing methods are necessary for the law enforcement polygraph examiner. I further advocate the advancement of training to ensure a proper confession that will withstand the scrutiny of both the academic sector and the legal system.

As a law enforcement examiner, it’s not enough to conduct polygraph in the utility manner. Our examinations must be sound and defendable in court, which should be the threshold standard. In Indiana where I live and am employed as an Indiana State Police polygraph examiner, polygraphs are admitted into evidence at trial when a proper polygraph stipulation agreement has been made. I have successfully defended polygraph on the witness stand many times. With the advancements that have been made in polygraph as a scientific method, defending the polygraph examination is more compelling now than ever before. In law enforcement polygraphs, it is not adequate to just screen for the deceptive individual; it is equally important to identify the truthful or innocent subject. An abused child’s safe return home may depend on it.

In the states that allow polygraphs into court, the law enforcement examiner’s duties are two-fold: presenting the polygraph evidence and presenting the confession evidence. We must be proficient in both areas and as VP of Law Enforcement, I will work towards that goal. I have been active in my department’s polygraph
section encouraging and sometimes taking the first steps in the implementation of validated and defendable polygraph techniques, along with ensuring solid confession evidence.

My experience in law enforcement began in 1984 as an U.S. Army Military Policemen where I attained the rank of sergeant. I have been an Indiana State Police Trooper for twenty-three years serving as a trooper for six years, detective for nine years, and currently as a polygraph examiner for the past eight years. I have a Master's of Science degree in Criminology from Indiana State University. I have written several published articles and taught on law enforcement subjects at our state police academy and other organizations. I am currently serving as president of the Indiana Polygraph Association and previously served as secretary. A big part of those duties were the routine operation and scheduling of training for our membership.

This is an important time for polygraph. I am asking for the opportunity to serve in this position to advance polygraph in the law enforcement field and in the courtroom.

**Candidate for Vice President Private (1)**

*George Baranowski*

I am honored to serve as your Vice President of Private Examiners and as I seek re-election into this office, I humbly ask for your support so that I may continue to work diligently with President Cushman and the elected board to meet the many challenges that are ahead as we continue in the direction of defensible, evidence-based practices.

Last year I jumped into this position with both feet, and now that I am sufficiently entrenched, I feel I have the insight, knowledge and experience to better move forward in the manner this position requires. Informed polygraph examiners long ago realized the necessity for our profession to move in the direction of defensible practices. Our journals, magazines and newsletters have made us aware of the NAS report on forensic sciences, of which we are included. We now find ourselves at a time when the APA can make those crucial decisions and policies, based upon research and science, that will place us in a position of safety from detractors, and at the same time, enhance our individual professionalism by administering defensible examinations which will in turn encourage greater confidence and trust among our consumers.

I have been a member of APA since 1986 shortly after graduating from the Zonn Polygraph Institute in Florida. My background in law enforcement includes retired homicide detective and 12 years as Chief Investigator for the Prosecuting Attorney’s office before opening a private polygraph practice in Northern Indiana in 1990. In addition to being a full member of the APA, I also belong to several polygraph associations and have served them over the years as Director, President, Vice President and Chairman of the Board.
I am an active member of ASTM International Committee E-52 Forensic Psychophysiological Detection of Deception since its inception in 1997, serving as .05 subcommittee chairman the past 9 years, and I authored one of the 17 published standards.

Since taking office last September I had the honor of representing the APA as a speaker at the Asia Pacific Conference in Singapore. In addition I had the privilege of being an exhibitor on behalf of the APA at ATSA’s annual Conference in Canada. I have presented a variety of topics over the years at polygraph conferences and seminars throughout the country.

I am a full time private examiner. Over the past 22 years I have seen the hardships, the joys, the changes and I understand the challenges. I can relate to my fellow private examiners and above all, I promise to always be a positive advocate.

Please allow me to assist the APA Board in continuing this momentum to ensure our collective future. I would appreciate your vote.

Please contact me at mindsightconsultants@comcast.net.

Candidate for Director 1 (1)

Jamie McCloughan

I am a detective sergeant and fulltime polygraph examiner with the Michigan State Police. I have been with the department for nearly 18 years and assigned to the Polygraph Section for 12 years. I am a full time examiner and conduct over 200 criminal specific issue exams annually. In addition to testing, I am required to conduct training and research, as may be necessary for the advancement of credibility assessment. Some of the areas I have conducted research and training in are concealed information testing (CIT), countermeasures, and voice stress (e.g. CVSA and LVA). Now that I’ve told you a little about my background, I want to lay out the foundation for why I am a running for this office.

My goal, if elected, is to work to further unify and strengthen the profession, so as to help us to be better prepared to face both current and future challenges. I will do this by building on core values of Unity, Knowledge, and Excellence.

First, I will continue and strengthen relationships with both the American Association of Police Polygraphists and our international colleagues. It is important that we are a unified front poised to address current and future issues concerning our profession.
I will look for solutions to help increase the availability of quality education which is both affordable and accessible. It is essential that examiners receive continuing education that not only keeps them abreast of the ever changing scientific issues but better prepares them to perform examinations in the real world. This could be achieved by increasing the number of webinar topics available to members and providing assistance and training to members on grant writing processes which might help their agency defray the costs with federal funds.

I will work toward providing members with a readily accessible means to improve in areas they seek to do so. I would initially propose to do this by continuing to further and facilitate the best practice principles started by Don Krapohl, as forensic science is not stagnant but ever changing. I would expand this effort by providing members with a readily accessible network (written and online) of individuals with the expertise in areas of interest.

In closing, if elected, I will work for the membership to continue to strengthen our profession to face current and future challenges by building on core values of Unity, Knowledge, and Excellence. I will strive to do these things with the foresight in mind that ensures that we are proactive in addressing future issues and implementing necessary change to help us face them. I have kept me ideas brief due to the 500 word limitation imposed. If you wish to contact me for further information, you may email me at mcclougi@charter.net.

Candidates for Director 2 (2)

William Fleisher

I respectfully ask for your vote to be a Director of the American Polygraph Association. If elected, I will bring to the table my 37 years’ experience as a polygraph examiner and instructor, 28 years in law enforcement and government service (much of which was in supervisory and management positions), as well as my 17 years as an examiner in the private sector. This experience will allow me to work tirelessly to assist the APA President and Board to continue to improve our organization, as well as the polygraph profession in general.

I promise that I will faithfully serve the interests of all APA members. Having been a government/law enforcement examiner since 1975 and then a private examiner since 1996, I understand the complexity of our profession and the dynamics of the APA as an organization. I will use my proven critical management skills to assist the APA officers and members in promoting the polygraph field and maintaining the integrity of our association. As an APA Director, I will staunchly support the APA President and other officers in directing our organizational “ship” onward and upward.
During APA board meetings, I will freely offer advice and ideas to promote the use of polygraph testing where allowed under existing laws and help develop new areas of testing for the private sector examiner. For example, bringing into the fold as many new state probation and parole agencies to use the polygraph to supervise sex offenders, domestic abusers and habitual criminals in their community safety programs.

I will make myself available and actively seek APA membership input to enhance our profession, even beyond the high standards being a member of the APA now implies. I will especially work to organize and develop specialized training for the private polygraph sector to improve their businesses financially through marketing techniques, sound business practices and job opportunities.

I will work with other board members to increase the public awareness and acceptance of our profession and the importance of using polygraph examiners who are of members of the APA. I will work with the APA board to educate the public about the dangers of relying on voice-stress and pseudo-lie detector systems.

I will work closely with the APA accredited school directors to maintain the high standards required for APA accreditation and improve ways to ensure that the APA continues to provide important ancillary services to these institutions. I will develop programs which will enable qualified private sector individuals to consider Forensic Psychophysiology as a career choice.

Finally and most importantly, drawing upon my considerable field experience and ability to work with people, I will bring a fresh view to the Board. I promise you, the APA examiner, that if you elect me, I will fulfill the duties and responsibilities of the office of APA Director to the best of my abilities and talents. Again, I respectfully ask for your vote.

Raymond Nelson

My name is Raymond Nelson, and I am asking for your support for re-election to the position of APA Director. Having served in this role for the past two years, I have worked to ensure the future viability of the APA and its membership. I have been honored and humbled by the opportunity to work with the others at the APA Board, and to meet many fine professionals in many jurisdictions. I have served on committees for PCSOT, legislation, research, and seminar planning. Together with the research committee, I helped to complete a meta-analysis that describes the scientific validity of both event-specific and multi-issue tests. I have worked diligently to ensure that APA policies are designed to serve and meet the needs of polygraph professionals in every category of membership.

I believe that the future of our profession depends on the strength and effectiveness of the APA, and that the APA leadership should do everything possible to support the long term success of its membership. Last year I helped coordinate the first-time translation of the seminar presentations.
Election 2012

for international members. I have provided many trainings both nationally and internationally in the areas of polygraph techniques, validation, scoring, interviewing, PCSOT, and other topics.

Having worked for years as a full-time private examiner, I am familiar with the challenges of conducting examinations and attending to professional issues at the same time. As a researcher, I offer expertise in psychology, psychometrics, statistics, and psychotherapy with offenders, trauma victims, and families. I have used these skills to help fill the gaps in our scientific literature, by publishing numerous studies on the validity of polygraph techniques in common use, including: the AFMGQT, Federal You-Phase, Backster You-Phase, Federal ZCT, and the DLST, in addition to studies on manual and computer scoring. Knowledge from these studies has helped me to defend polygraph examinations in legal settings including District Courts, State Supreme Civil Courts, and arbitration hearings involving both internal investigations and pre-employment matters. As a Board member, I have worked to ensure that our practice standards are based on defensible evidence and supportive of the needs of both field examiners and referring professionals.

With new legislation always looming for both the regulation of forensic sciences and the utilization of alternative technologies that have not proven themselves as effective as polygraph testing, our profession needs to continue to advance and ensure our future. The APA must continue to build a viable future based on understanding and communication with other professions. I believe I am uniquely qualified, highly experienced, and highly motivated to work on behalf of our association and our future.

In closing, I want to thank you for the opportunity to have served for the past two years. Please support me in this election for APA Director, and I will continue to do everything possible to support the APA, its membership, and polygraph testing as the most important and effective method available for lie detection and credibility assessment. I can be reached at raymond.nelson@gmail.com.

Candidate for Director 4 (1)

Michael Gougler

I am seeking reelection to the Director IV position on the APA Board. I humbly ask for your support and vote.

Over the last 8 years it has been an honor to represent you and serve the profession. Because of your continued support, I have been allowed to give back to the profession that has given so much to me. I have served or chaired on the following committees during my tenure: Standards of Practice, Model Policy for Applicant Screening, PCSOT, Awards, Ad hoc Committee for Validated Techniques, Past President’s Advisory Committee, and for the last 2 years as the Seminar Chairman.

For those that do not know me, I have 30 years’ experience as a polygraph examiner in both the law enforcement and commercial fields. I was the Commander of the Texas DPS Polygraph Service and founder of the Tx DPS polygraph school. I also served as the chairman, vice chairman, secretary, and member during my 9+ year term on the Texas Polygraph Examiner Board. I have been the President of the APA and the
Texas Association of Law Enforcement PolygraphInvestigators. I am also a life member of both of those associations, as well as a member of AAPP.

I bring to the APA board experience in multiple areas as an examiner, administrator, regulator, and an experienced board member on state and national associations.

My reputation within the APA board and with the membership is that of being a person who is willing to accept the difficult assignments and get the job done. I encourage you to speak to other board members about my performance and willingness to be part of the team. I believe some of my strongest skills are those of diplomacy and building consensus on the board.

I am not running for office, I am asking to serve. I pledge my continued dedication to the APA and polygraph profession should you deem me worthy of your vote. Without you, the membership, the APA would not be able to advance our profession into the 21st century.

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**Important dates to remember**

**July 15 - July 21:** Electronic elections

**July 23:** Posting of results on the APA website

**August 1:** Email notification to members of a runoff, if necessary

**August 5 - August 11:** Runoff elections, if necessary

**August 12:** Posting of final election results

New officers will be sworn into office at the Annual Seminar in September.
Hello everyone! I hope you are doing well. The summer is flying by, and before we know it, the seminar will be upon us. We have already received a significant number of registrations and are excited for the opportunity to see so many of you in San Diego! We have a great lineup of speakers and the seminar site/hotel is wonderful! Hotel space is already limited given the high volume of registrations, but please note that additional nearby hotels have also agreed to offer the same seminar group rates.

Over the past couple months your APA Board has held two teleconference meetings. From those meetings, two motions will be brought before the general membership for vote. Please see the announcement regarding each proposal and the relevant discussion in this issue of the magazine.

In May the Board of Directors approved a new model policy regarding records retention and management of polygraph information. Many examiners have been asking for guidelines in these areas and so it is hoped that this document will prompt examiners and end-users to consider the most essential elements and make informed decisions. The model policy will be made available on the public portion of the website along with the other APA model policies, and in fact, may already be posted by the time this Magazine reaches your inbox. Another model policy that is currently under consideration by the Board is one that addresses suitability for testing. Again, a very popular topic of inquiries received by the APA. It is likely that this policy will be made available by the annual seminar.

This time of year draws us near to election of new Board members. Within this issue you find the ballot of candidates and their candidacy statements. I encourage you to take the time to read each of the candidate’s information and participate in the voting process. The decision to move to electronic voting was an effort to allow every member’s voice to be heard regarding whom they believe should be serving on the Board. Having the opportunity to vote and choosing to use it are two entirely different things, but both are equally important to the health and vitality of our association.

As always, it is an honor to serve the profession and the wonderful members of this Association. Thank you for a wonderful experience as APA President thus far. I look forward to the months ahead and preparing for our time together in San Diego. Until then, if you have any questions, concerns or comments, please feel free to contact me.
Fellow professionals,

The 2012 seminar is upon us! The schedule has been finalized and the finishing touches on all the activities are completed. Once again we are going to have an event to remember. We will have expanded training opportunities, as some sessions will have four choices for the membership, as well as a Sunday afternoon training session.

The national office staff is currently attempting to secure additional hotel rooms for the seminar. We have sold out our entire allotment of rooms at the Hilton (425 rooms) and the Omni (50 rooms) as of June 25.

We will also have interpreter services (Spanish) provided in Classroom A for the entire seminar. Thank you Chris Fausett and Lafayette Instruments for providing the interpreters.

If you haven’t already, please contact Robbie Bennett for tickets to the dinner cruise on Tuesday night. This event has limited seating and will be on a first come, first served basis. Get your tickets now!!

The election of officers will be conducted shortly after you receive the magazine. Please vote for the candidate of your choice and have a voice in the future of the APA.

We will again have a hospitality suite on Monday and Wednesday evening. Stop by for the networking experience and meet some new colleagues.

Make plans to attend the annual business meeting so you can voice your opinion concerning the two constitutional changes.

I am proud to announce that we have added a special classroom training session!! There will be an opportunity to meet and discuss polygraph with Cleve Backster, a true pioneer in our profession. Don’t miss this chance to meet “the legend.”

Your APA Board and Seminar Committee have worked diligently to build on the success of our Austin seminar in hopes of making the San Diego conference a memorable experience for members and guests alike. I would personally like to thank Tom Kinney for all his assistance in providing the honor guard, the singer for the national anthem and the speaker for the opening ceremony. See you in San Diego.
At the meeting of the General Membership in September 2012 (San Diego, CA) two proposed Constitutional amendments will be brought before the membership for vote.

**Motion I**

**Motion:** To add a standing Ex-officio position for a Seminar Chair (Article VI, Para B).

**Discussion:** Currently the duties of Seminar Chair are assigned to an elected board member. The time commitment and volume of work associated with being seminar chair are great. As such, the appointed duty of Seminar Chair has historically been rotated from year to year to a different member of the Board so as to allow the various Board members to share in the burden of the work.

This rotation limits consistency and stability in an event that is an integral part of the APA experience. The time commitment and demands of the position are, in part, a product of many taking on the task the first time. Unfamiliarity with the processes and procedures only lengthens the learning curve. An Ex-officio Seminar Chair would provide continuity from year to year, and ultimately increase efficiency.

**Motion II**

**Motion:** To move the Secretary’s position to ex-officio at the end of the Secretary’s current term and replace that position with a fifth Director.

**Discussion:** Moving the Secretary’s position to ex-officio is in alignment with the APA’s current rationale for ex-officio officers, all of whom have unchanging responsibilities irrespective of who holds the position (e.g. General Counsel, National Office Manager, Treasurer, Editor). Under this proposal the Secretary duties would be assigned to one of two personnel already employed at the APA National Office. To retain the number of voting Board members, a fifth Director’s position would be created. The net effect of these changes would be the streamlining of the Association’s records management and information flow and the retention of the number of Board members to shoulder committee assignments. The goal is the more efficient execution of Association responsibilities. There are no anticipated cost increases or savings with this proposal. This motion is a furtherance of President Shaw’s agenda to improve the operations of the APA while providing as many people on the ground to handle committee assignments.
Model Policy for Release and Management of Polygraph Reports and Polygraph Data

(approved May 7, 2012)

A
n effective polygraph records policy should ensure that polygraph data and results are made available to those professionals and persons that require the information to make informed decisions about the strength of the information and test results, while restricting polygraph data and results from those who would attempt to use such information to thwart investigation efforts, damage the security of sensitive information, reduce the safety of individuals and communities, or undermine the effectiveness of polygraph tests and polygraph programs. Polygraph data and results should be regarded in the same manner as other forensic investigation data and other forensic test results. Though not subject to the same legal requirements as medical and psychological data, information should be retained in a manner that ensures the confidentiality and rights of victims of crime and abuse, and the rights of the examinee. Polygraph records policies should not be inconsistent with best practices and legal requirements.

1. Polygraph examiners should ensure that all polygraph reports, data, recordings, information and documents are protected against loss, inappropriate release, unauthorized access, alteration and misuse. Polygraph reports and related work products should be released only to authorized referring or retaining persons, professionals, and agencies as delineated on the signed statement of informed consent or as set out in orders of the court. Unless required by law, polygraph examiners should not release polygraph reports, test questions, data, recordings, information and documents of any kind related to the polygraph pre-test, in-test or post-test to persons that may attempt to use such information to neutralize or interfere with the effectiveness of future polygraph examinations.

2. Polygraph examiners should ensure that all polygraph reports, test questions, data, recordings, information and documents of any kind related to the polygraph pre-test, in-test and post-test are maintained for a minimum of three years or as otherwise required by law.

3. Nothing in this requirement is intended to prohibit a polygraph examiner from discussing the examination results with the examinee during the post-test phase of the exam, or with family members if in the context of a case review or legal proceeding with other professionals.
4. Polygraph examiners should discourage other professionals from re-distributing polygraph examination reports, including the attachment of the examination report to reports or materials submitted to the court. Instead, other professionals should be encouraged to summarize the polygraph results and information in their own reports. When polygraph examination data and results are of interest to the court, polygraph information should be submitted by the examiner.

5. Nothing in this Model Policy is intended to prevent proper use of polygraph reports or other information in court, other evidentiary proceedings, investigation contexts, or risk assessment and risk management activities for which the test is intended to provide information to the parties authorized to receive the report.

6. Polygraph examiners should comply with all lawful court orders and subpoenas regarding release of polygraph information. Nothing in this requirement is intended to prohibit a polygraph examiner from proper objection, opposition or appeal of a subpoena or court order.

7. Nothing in this Model Policy is intended to prevent proper use of polygraph or other information in professional quality control and quality assurance activities. Examiners subject to information requests for quality control purposes should provide information in both printed/printable and electronic form, along with the audio/video recording. Provided information should be sufficient to review the examination and referral basis in their entirety, and to replicate the manual and automated test data analysis.

8. Polygraph examiners should report all relevant information to the referring or retaining professionals. Polygraph examiners should remain aware of local laws regarding mandatory reporting of known or suspected cases of child abuse. Sworn law enforcement officers may be required to report all known crimes, depending on the scope of their authority or jurisdiction. However, polygraph examiners who are not sworn law enforcement officers, or not public employees, may be legally mandated child abuse reporters in some jurisdictions. Regardless of mandatory reporting requirements, polygraph examiners should remain aware that some referring professionals are required to report all known or suspected cases of abuse.

9. No one other than the examiner and examinee should be permitted in the examination room except in circumstances in which an examinee requires an interpreter to communicate effectively during the examination.

10. Referring professionals and attorneys should be permitted to observe the examination through a video monitor, or review the recording at a later time. In order to minimize distraction and outside influence, no interaction should occur between the examinee and observing professionals after the onset of the pretest interview. However, the examination may be terminated at any time.
11. Due to the sensitive nature of the information discussed during the polygraph examination, family members should not be allowed to observe the examination as it occurs, unless required by law, local practice regulation, agency policy, or court order.


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Can you guess who the man in this photo is?

turn to page 47 to see if you guessed right.
On April 25, 2012 the Equal Employment Opportunity Commission (EEOC) issued its expected guidelines (1) indicating they are a continuation of the 2008 Eradicating Racism and Colorism from Employment initiative discussed in previous articles (2). While the guidelines do express concerns about the possible misinterpretation of information contained in criminal records – that not all arrests result in convictions – the real issue for Polygraph, Human Resource and Background Investigators conducting pre-employment interviews will be the new emphasis on numerical disparities as the driving force for claims of discrimination in employment. Essentially, an applicant of a protected group merely has to show that an employer has a policy or practice with a disparate impact to

NOTE: The following should not be considered legal advice. Please consult your own legal advisor before implementing any of the following recommendations.

About the author: Stanley M. Slowik is a frequent contributor to Polygraph and the author of an oft-cited polygraph validity study published in a peer review journal.
establish sufficient proof justifying a federal investigation. The intentions of the employer’s policy or practice are irrelevant. Once disparate impact has been shown, it then becomes the employer’s obligation to demonstrate Business Necessity and, in some cases, the absence of a less disparate alternative.

Statistical racial disparity clearly is true for just about anything involving the criminal justice system. Contacts, arrests, convictions, incarcerations, probations, paroles and the most valid predictor of future conduct, commissions, all clearly have a significant disparate impact on African Americans and Hispanics vs. White racial groups (3). In addition, the methodology used to obtain criminal information doesn’t appear to affect the disparity in the rates. Criminal record checks, application/Personal History forms and pre-employment interview admissions all have the same net effect – they result in statistical racial disparities. Notably lacking in the new guidelines is any discussion of these same – and even more pronounced – disparities as they exist on the basis of gender, another Title VII protected group. Even a superficial review of the number of mens’ and womens’ prisons, male and female inmates, demonstrates once again that crime in America is still a predominately male activity. This should allow some male job applicants to claim “reverse” gender discrimination because some employer solicited information about past criminal conduct. The bottom line effect of the new EEOC guidelines will be to force many employers into a “guilty until proven innocent” scenario. Unfortunately, some employers may choose to avoid this inevitability by simply discontinuing the solicitation of information regarding criminal behavior. This, in turn, may lead to the assumption that certain questions (about arrests and convictions) must be illegal or, at the very best, not worth the risk of attracting an EEOC challenge.

This prediction is not misplaced. There are public and private employers who still today believe it is illegal to ask about age or marital status during the pre-employment process when in fact the various laws make the practice of discriminating on the basis of these variables – not the questions – illegal. There clearly are appropriate and inappropriate times to solicit certain information but the issue of avoiding nuisance litigation is separate from the issue of solicitation legality.

As will be discussed below, the time and money involved in proving Business Necessity, the lack of viable alternatives and the negative effect of an EEOC challenge on recruitment can be far beyond the reach of most public and private employers, a reality that, though never mentioned in the new guidelines, had to be evident to the authors of this initiative.

The obvious conclusion one must draw about the new criminal history guidelines is the assumption that employers will only and always use the information to racially discriminate against applicants. I have helped design and defend employment selection systems for federal, state and local government agencies as well as both large and small private employers and have yet to see either practices or policies in the last thirty years designed to create or
preserve racial discrimination in employment. Nevertheless, it is undeniable that there is a disparate racial impact with regard to information tied to criminal records linked to the criminal justice system. While some have stated this is the result of systemic racism on the part of judges, juries and police officers, a closer look at where the differences occur has long revealed a critical distinction. With some variation, overall, whites and other racial groups have nearly identical arrest and conviction rates for crimes involving integrity while some non-white groups (African-American and Hispanic) tend to have significantly higher rates for crimes of violence (4). The largest variations tend to occur when one looks at age (older = lower) and most significantly, gender (women = lower). This difference in the conviction rates based on type of crime should be articulated by any employer concerned about Workplace Violence, Excessive Force or Domestic Violence.

Compliance Issues

The easiest way to comply with the new Guidelines would be to simply stop soliciting any information regarding criminal conduct: no application, polygraph or interview questions, no record or social or other media checks and no questions of character references about criminal convictions or commissions. If, inadvertently, the applicant revealed such information or it was discovered in an employment record file, it should be ignored. In this manner, in theory at least, there would be no practice or policy that would have disparate impact based upon criminal conduct. Under this approach, applicants who missed work or were late for assignments because they had to comply with the terms of their parole would simply be disqualified or dismissed because of excessive absenteeism or tardiness without ever considering “why” or mitigating circumstances. Of course, to follow this approach, employers might have to ignore a number of laws regarding Domestic Violence, the possession of firearms and POST certification requirements. When these conflicts were pointed out to the EEOC by the International Personnel Management Association and other employer groups during the hearing phase prior to the Guidelines being issued, they went unaddressed presumably because federal law trumps state law. The EEOC, however, does acknowledge the federal prohibition regarding firearm possession and Domestic Violence convictions which clearly would apply to any job where the possession of firearms was essential (5).

The reality is that both public and private employers are truly concerned about whom they hire and these concerns extend beyond the basic skills, knowledge, experience and ability requirements applicants must have for the job. Even the federal Office of Personnel Management considers integrity to be a competency on a par with all other competencies. Therefore, whether the organization is concerned about integrity, violence or a drug free workplace, evaluation of criminal conduct is both desirable and necessary. Finally, employers wishing to escape the frying pan of EEOC disparate impact litigation might find themselves in the fire of negligent hiring claims should they fail to evaluate all past criminal conduct.
Creating Qualifiers/Disqualifiers For Criminal Conduct

Not everything about the new guidelines is misplaced. The discussion about limiting the period of accountability for criminal activity is certainly something that I have written about and advocated since at least 1979 (6). While there will always be some absolute or forever disqualifiers, most information targets should have uniform and consistent Periods of Accountability. These Periods should consider likely changes in social development (adolescence to maturity) but avoid variable or sliding time bars such as “Since you were 18…” or “Since you were 21…”. While this approach excuses what for most people are the typical excesses and anti-authoritarian behaviors of youth, they result in unequal treatment for older applicants some of whom may be protected by the Age in Employment Discrimination Act. Thus, if the employer were to apply the “Since you were 21…” standard to a 22-year-old applicant, that applicant would only be accountable for activities in the preceding year. The same terminology, however, results in a very different (unequal) standard for a 42-year-old applicant – a far more severe 21-year Period of Accountability. In addition, one should also consider the time elapsed since the last occurrence. While it would be nice to base this on solid probabilities of recidivism, few statistics exist based on specific crimes. Further exacerbating this calculation is the reality that many states have over 1,000 defined crimes in their criminal or penal codes. In 1970, the Code of Federal Regulations had 54,000 pages. By December of 2011, it had 165,000 pages. Legal experts estimate the number of federal regulations now linked to criminal statutes at anywhere between 10,000 and 300,000 (7). All this means, of course, that today employers are far more likely to encounter applicants with criminal histories if for no other reason than there are far more crimes on the books than even a generation ago. While anecdotally it may still be true that a person convicted of a homicide did, in fact, only commit a single homicide and a person convicted of a single drug sale was, in fact, responsible for many other drug sales, most recidivism rates only apply to a more generalized criminal arrest/conviction rates, not crime specific probability rates. Federal, state and local law enforcement agencies who have adopted the procedures taught in the Objective Pre-employment Interviewing course (8) report 3 to 5 years for less serious and 7 to 10 years for more serious activities to be practical Periods of Accountability for most criminal and other counterproductive behaviors. Thus minor speeding violations would be considered within the last 3 or 5 years and serious Hit-and-Run violations in the last 7 or 10 years. The EEOC cites the 7 year accountability period contained in the Fair Credit Reporting Act as a possible guideline and further cites several studies that appear to show that previously convicted individuals’ recidivism rates correspond to those of individuals never convicted after 6 or 7 years (8). Unfortunately, these findings may simply be the result of normal changes in emotional maturity since they primarily compare juvenile and adult criminal conviction records.

Once the Periods of Accountability have been established, the employer should then consider frequency and/or quantity in creating
uniform standards. “How many serious, undetected crimes in the last 7 years” before the applicant is disqualified usually means one or more felony commissions or convictions while theft from job admissions exceeding $100 in the last 3 years (not how many times, but how much in dollars) is often used to create an integrity disqualification standard based upon work related theft. Finally, employers should always consider the circumstances surrounding criminal conduct, what the EEOC calls “individualized assessment” with the possibility of making exceptions to the disqualification standards. However, such assessments should not be made casually either for or against the applicant. Even a superficial review of current criminal justice practices indicates that conviction records are almost always pleas that greatly underestimate actual criminal conduct. Since it is the recent past criminal act that predicts the recent future criminal act, employers should be less concerned about trying to make criminal justice terms such as diversion, deferment and nolo contendre fit the pre-employment arena than finding out what the applicant actually did. Also, if exceptions to the standards are made for one “individualized assessment,” all future applicants with the same set of circumstances must be granted the same exception. In effect, the disqualification standards have been changed and it is critical that employers keep track of such changes so they can be applied uniformly. For this reason, individual interviewers, polygraph examiners and background investigators should not be allowed to grant exceptions for the interviews, polygraph examinations and background investigations they themselves conduct but rather petition a specified administrator (“Oracle”) who can ensure the left and the right hand continue to be consistent with regard to the application of the standards.

Proving Business Necessity

Since all evaluations of criminal conduct have both a gender and racial disparate impact, employers are required at their time and expense to prove Business Necessity and, in some cases, the lack of an alternative with less disparate impact. Business Necessity applies to all types of employers, public and private, and refers to things that are critical to the existence of the organization, not operational efficiencies or profit in the private business sense of the term.

The simplest and least expensive way employers can demonstrate Business Necessity is to cite a federal statute that supercedes Title VII. There are numerous occupations (law enforcement, port work, private prisoner transportation, contact with Indian children, etc.) that require federal licenses that in turn prohibit individuals convicted of various felonies and misdemeanors from obtaining the required licenses. In short, no license means no job. In some cases where the use of firearms is a Business Necessity, convictions for felony or misdemeanor Domestic Violence would become an automatic disqualifier for even state and local law enforcement jobs. The EEOC, however, is quick to point out that state and local laws (Police Officer Standards/Training or Commissions of Law Enforcement Officer Standards/Education) do not supercede Title VII mandates. Also, there are various crimes (treason, inciting riots, federal drug offenses,
etc.) that preclude federal employment but some of the crimes cited have limited Periods of Accountability. There are numerous other jobs and programs that are subject to federally imposed restrictions based on criminal convictions including, but by no means limited to, the business of insurance, employee benefits, Medicare and some state health care programs, defense contracting, prisoner transportation, commercial motor vehicle licenses, locomotive licenses, pilot/flight instructor licenses, stock and bond brokers, commodity dealers, investment advisors, customs brokers, arms and other exporters, merchant mariners, farm labor contractors, and grain inspectors. While it may appear that anyone connected with a good lobbyist had themselves statutorily exempted from Title VII, one should never forget that convictions only involve individuals who were caught and pled to what their conviction records indicate. If one truly is interested in predicting future, performance-related conduct, the focus should always be on what the individual did, how long ago, how often and under what circumstances. Also, many federal employers and subcontractors must abide by various Presidential Executive Orders that often appear to contradict the federal statutory exemptions and would have to be resolved in litigation.

Any employer whose employees testify in court or any form of administrative or licensing proceeding should always consider arguing that being a credible witness is a Business Necessity and that even criminal conduct that happened long ago is used to discredit witnesses. Both Prosecutors and Defense Attorneys are well known to attack witness credibility by inferences that have no basis in fact, let alone a criminal record. Further, once discredited, said employees can neither be dismissed (they met the hiring standards) nor ever used again in the capacity for which they were hired. Unfortunately, this argument only applies when testifying is not merely possible but certain on a regular basis, an employment condition true for peace officers but unusual for support staff.

There are sometimes experiential “proofs” of Business Necessity and can be presented as face validity justifications for disqualifications based upon criminal histories. For example, if an employer had been sued and failed to prevail over an incident involving Excessive Force or Workplace Violence, such an employer may apply this documented experience to argue the need to screen out applicants who were convicted or admit to crimes of violence. In some instances, this same argument might be attempted when it is generally accepted to be true of the profession or industry even if a specific incident has never occurred at the employer in question. Thus, since many but not all law enforcement agencies have to deal with allegations of Excessive Force, even if a particular police department has never been sued for Excessive Force, they might argue that such occurrences are common enough within the profession of police to justify screening out applicants with commissions or convictions for violence.

Empirical “proofs” of Business Necessity start with citing accepted research published in peer review journals, e.g. certain levels of alcohol and other drug use negatively effect
hand-eye coordination, sound judgment, etc. and link them to position related tasks that have been established as Essential Functions (ADA/ADAAA) or Bona Fide Occupational Qualifications (Title VII).

Controlled group studies, including before-and-after studies, are sometimes used to demonstrate Business Necessity but only for skills, knowledge, abilities and experience – not criminal conduct. Thus comparing the work related performance of applicants who were found to be truthful on polygraph examinations when they denied serious criminal activity in the last seven years to applicants who admitted to serious criminal activity or were reported as untruthful when they denied criminal activity within the last seven years would almost certainly result in a finding of Negligent Hiring against the employer. In fact, the whole issue of limiting the Period of Accountability has never been tested with regard to the concept of Negligent Hiring so some employer following the new EEOC Guidelines regarding criminal conduct will most certainly be a test case.

**Less Disparate Alternative**

If an applicant who is negatively affected by an employer’s practice or policy demonstrated to have a disparate impact can show an alternative practice or policy with significantly less disparate impact, the employer who refuses to adopt the alternative might be found to be in violation of Title VII. While all males and particularly African-American and Hispanic males can easily demonstrate that they are negatively affected by any measure of criminal conduct, I am not aware of any alternative that evaluates the same conduct and has less disparate impact. There are validated paper-and-pencil psychological integrity tests such as the Reid Report that statistically show no racial disparity but, as discussed previously, measure honesty and do not claim to evaluate all work related criminal activity and, specifically, are not validated to measure acts of violence such as assault, battery, domestic violence or homicide – on or off the job. Also, if individualized assessments are to be part of the new EEOC focus, assessment tools that rely solely on statistical population analysis might face additional problems that one-on-one interviews and polygraph examinations should be able to avoid.

It is important to remember that the new EEOC Guidelines regarding criminal conduct do not include any new regulations or laws but rather attempt to make employers more liable for disqualifications based upon criminal activity. It is clear that the EEOC is aware of entire categories of employers that are statutorily exempt from these Guidelines and it can be expected that categorical proofs of Business Necessity will eventually evolve in case law. Until such time, however, employers are best advised to formalize criminal conduct disqualifiers and prepare Business Necessity defenses that demonstrate this information target to be relevant to organizational purpose and work performance.

In the short run, however, any employer whose employees testify in court or any form of licensing or administrative proceeding
should always consider arguing that being a credible witness is a Business Necessity where even criminal activities that happened long ago are used to discredit employer witnesses. Further, once discredited, such an employee can neither be dismissed nor ever used in a testimonial fashion again since it quickly becomes common knowledge to all interested parties. Unfortunately, while this argument only applies for situations where the employee’s testimony is common place and not a mere possibility, it most certainly would be true for any practicing peace officer.

References

(1)  www.eeoc.gov, EEOC Enforcement Guidance, No. 915.002


(4)  Paul Guerino et al, Bureau of Justice Statistics, U.S. Dept. of Justice, Prisoners in 2010

(5)  18 U.S.C. & 922 (g) (1), (9)

(6)  Ethics in Pre-employment Polygraph Examinations, Polygraph, Vol. 8, No. 2, 1979


(8)  www.stanleyslowik.com

(9)  Id. At (1), Endnote 118

Leonarde Keeler, ca 1943.
Throughout the pretest the examinee was fluent and articulate without demonstrating any shred of speech difficulties or disorder. Yet, once the test started a distortion (suppression) pattern emerged in the examinee’s pneumograph tracing, a distortion (see fig.1) that might be unintentional and attributed to attention focusing or speech disorder or on the other hand a deliberate countermeasure attempt.

The Silent Answer Test (SAT) that was introduced by Horvath & Reid (1972) is the examiner’s diagnostic tool to resolve the source.

Figure 1

The author is a private examiner in Israel, and a regular contributor to the publications of the American Polygraph Association. The views expressed in this column are solely those of the author, and do not necessarily represent those of the American Polygraph Association. Publishable comments and replies regarding this column can be sent to editor@polygraph.org. The APA may publish responsible comments received by the publication deadline in the following issue of the APA Magazine.
of the disturbance, whether unintentional or not, as well as overcoming the distortion that may damage the chart purity. In addition the SAT is being used as an acquaintance test which supposes to extract stronger reactions in later charts.

Definition

In the SAT “the examinee is directed to answer to himself instead of making a verbal response… To ensure examinees are attending to the content of the test questions … examiners instruct the examinees to indicate their responses by slightly nodding or shaking their heads. When the SAT is used with head movements, it is called an SAT Nod” (Krapohl, Handler & Sturm, 2012).

Rationale

Reid and Inbau (1977) explain that by not answering, the examinee: feels uncomfortable because it is impolite, it raises suspicions and fear of the unknown, left alone with his thoughts and fear of detection which creates a greater mental conflict than usual. As a result the examinee will focus more attention to the questions resulting in a stronger reaction.

In addition “… answering questions aloud (examinees) are actually defending themselves against the examiner, and by talking they are allowed to relieve themselves of some of the tension.” But in the SAT “… subjects are no longer defending themselves against the examiner; they are no longer competing with him; instead, they must now lie to themselves… (which) seems to (be) harder to conceal … In the SAT, however, the subject is told to give the answer truthfully in his mind, but not vocally, when the questions are being asked. The lying subject starts to think about them and the responses begin during the asking of these questions, which is prior to the place where the normal verbal answer would occur. Posttest interviews with lying subjects have borne out this theory that the subject starts to think about the answer as soon as he recognizes the question, and sometimes repeats the answer several times before the examiner has completed the question. This mental activity and thinking about the question causes conflict in the subject’s mind which is the normal basic reason why deception is indicated in the test” (Reid & Inbau, 1977).

Position

Reid position - “The SAT …near the end of the test … however, it may be employed as the very first test in the examination series … even before the pretest interview”. The Utah technique utilizes the SAT as the fourth crime chart if the first three charts were not conclusive (Raskin, Barland, & Podlesny, 1977). In the Integrated Zone Comparison Technique (IZCT) test format the SAT is the first crime chart, because “… in the first chart … most examinees don’t consciously perceive the chart as a threat, since they are not answering out loud, and lying. Thus, they rarely attempt any type of mental or physical countermeasures. This not only results in an excellent chart of physiological tracings, but also excellent reactions to the appropriate zone of questions where deception will be attempted. It is not
the utterance of “yes” or “no” that creates sympathetic nervous system arousal. It is the examinee’s cognitive recognition of the threat the questions pose to his or her wellbeing in a format to which they will attempt deception” (Gordon, Fleisher, Morsie, Habib, & Salah, 2000).

As in the IZCT, the Marcy Techniques also conduct the SAT as the first chart followed by an Acquaintance Test and two more “regular” charts (Matte, 1996).

**How is the SAT introduced to the examinee?**

Reid and Inbau (1977) introduce the test in the following manner: “Joe, I’m going to conduct another test. However, this test will be a little different from the prior tests. I’m going to ask the same questions as before in exactly the same order, but instead of answering my questions aloud, I want you to listen carefully and then answer each question to yourself with the truthful or correct answer, but do so silently. In other words, Joe, don’t answer any of the test questions out loud.”

Gordon introduces the test in the following manner: “In this first test I am going to ask you the questions I just reviewed with you. During the test I don’t want you to answer out loud. I just want you to listen to the questions one more time, get used to being attached to the instrument, and having me ask you questions. It is to make sure you have understood all of the questions, feel comfortable with them, and most importantly, that you have answered every question truthfully. If you remember anything you haven’t told me about, you can tell me as soon as the test is over, but don’t say anything out loud during this first test; just listen.” (Gordon, Fleisher, Morsie, Habib, & Salah, 2000).

In addition it is strongly suggested to add the following: “… among others the reason that I don’t need your verbal response is very simple: the polygraph is reading you like an open book, and as in reading sometimes you read it out loud and some other times you read it silently in your heart.”

**Analysis**

According to Reid and Inbau (1977), when the SAT is conducted as the first chart prior to the pre-test: “… the responses allow … an indication … and assist the examiner in possibly developing further avenues of inquiry during the (pre-test) interview.”

While the IZQT test format and the Marcy Technique evaluate the SAT charts and tally them up with the rest of the charts, Matte (1996) disregards the responses in his final evaluation.

**Research**

Research conducted by Horvath and Reid (1972) revealed that the SAT produces better respiratory reactions. In addition their research further indicated an enhancement of the utility of the electrodermal recording. The SAT not only produced a chart with greater
purity of tracing but also acted as an effective stimulation test for the subsequent polygraph tests that do require a verbal answer.

Elaad and Ben-Shakhar (1989) found in their study that when an examinee undergoing a GKT test did not receive any motivational instructions and no verbal answers were required, significantly lower levels of psychophysiological reactions were displayed as compared to the control group that were instructed to give a verbal answer and employ countermeasures to the critical item.

References


**Quotables**

“Learning is not compulsory… neither is survival.”

~W. Edwards Deming
On Friday evening about 1830 hours, September 16, 2011, in the Century Plaza shopping center, Frankfort, Kentucky, the Big Lots store had a substantial fire in the storeroom. The storeroom was an area where they kept furniture, mattresses, etc. The amount of loss for the store was reported at one million dollars. The store was open and occupied at the time the fire was discovered.

The investigation was conducted by Frankfort City Police (FPD) and assisted by Alcohol Tobacco and Firearms (ATF). During the course of the investigation FPD Detective Jeff Fogg and ATF Agent Bill Stapleton discovered there had been two earlier fires set in trash cans inside the Big Lots store. They determined one employee, Angela Lynn, was working every day there was a fire and had been in the storeroom prior to that fire on September 16th. Based on this information Detective Fogg scheduled a polygraph for Angela Lynn. The test was conducted September 23, 2011, at the Kentucky State Police Polygraph Section. The

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About the Author: The author is the Kentucky State Police Polygraph Program Manager, and graduate of the Kentucky Institute of Polygraph Studies. He was a Trooper with the Kentucky State Police 1985-2006, and a 1983 Graduate of Eastern Kentucky University with a B.S. in Police Administration. From 1975-1979 he was with the U.S. Marine Corps Military Police.


2Detective Jeff Fogg is a 1993 Graduate of Department of Criminal Justice Training Academy while employed by Frankfort City Police Department. In 1999 he moved to Detective Bureau. In 2002 he graduated from Eastern Kentucky University with a B.S. in Police Administration. He served 1986-1991 in U.S. Army Communications.

3Alcohol Tobacco and Firearms Arson Investigator
examiner, Robert McPherson, had just recently completed his basic polygraph school and was in the first phase of a year-long internship. McPherson conducted a full polygraph examination: pretest, test, and posttest.

During the pretest phase McPherson read and explained the consent form, which included a statement about being there voluntarily, without threats, duress, coercion, force, promise of immunity or reward. The standard Miranda warnings were also contained in the body of the consent form.

A background form was completed (personal history), as well as a medical form to make sure Ms. Lynn was suitable for testing. During the pretest interview she denied any involvement in starting any of the fires. After the pretest interview was completed a break was taken. During the break the examinee was taken back out to the lobby where she could have access to a bathroom or could go outside to smoke.

While Ms. Lynn was on break McPherson formulated the test questions. The testing format was a four-question MGQT with probable lie comparison questions. The relevant questions were:

Did you participate in setting any of those fires at Big Lots?

Did you start that fire at Big Lots last Friday?

Did you plan with anyone to set those fires?

Did you light any of those fires at the store?

The test questions were reviewed at least twice with the examinee before she was asked to sit in the polygraph chair.

By

John Fyffe

4Lt. Robert McPherson is a Uniform Patrol Supervisor for the University of Kentucky Police, and has been a Sworn Officer Commonwealth of Kentucky 22 years. He is a 2012 Graduate of American International Institute of Polygraph and a 1988 Graduate Eastern Kentucky University with a B.S. in Police Administration.
During the in-test phase an acquaintance test was completed, followed by the MGQT criminal specific testing. There were three presentations of the relevant questions, one time each on three separate charts. After all the charts were collected McPherson brought them out of the testing room to be scored (See Figures 1-4).

McPherson used the Empirical Scoring System to score the charts. The spot totals were as follows:

- R4 - 8
- R5 - 6
- R7 - 11
- R8 - 4

These scores supported a decision of Deception Indicated. The examinee was told the results of the test and McPherson began a posttest interrogation using interview themes he had developed. The first theme focused on the examinee having an extreme amount of stress in her life. The examinee had recently separated from her husband. In response the examinee said “if they are going to charge me then tell them (detectives) to take me to Coffee Tree now.” Coffee Tree is the street location of the county jail. The examinee then said to the examiner “let me go or arrest me.” Note: The examinee was not in custody, and based on that statement she knew it.

The posttest interview had been going on for five minutes when McPherson came out of the testing room for advice. I instructed McPherson to go tell Lynn he (McPherson) was not an arresting officer and that she could go at any time. If, after telling her that, she did not get up to leave he should continue with the interview.

McPherson went back into the room and continued the interrogation. Five minutes later I went into the room. I began to develop interrogation themes for Ms Lynn such as making a mistake as well as getting counseling. I made personal contact with the examinee by reaching out to touch her on the forearm and lightly rubbing it. I told Ms Lynn she was not a bad person and I reassured her that she was not the type of person who would start a fire to hurt people. I began to talk to her about lying and being lied to. I asked her if she had ever been lied to and whether she liked it. I then asked her who she would forgive; people who lie and don’t tell the truth, or people who ask for forgiveness. She responded that she would forgive people who said they were sorry. I then told her this was the same thing; she could get forgiveness, but that she had to be truthful. She then said she could not go to jail because she had children to care for. My experience told me this statement represented a psychological roadblock and she would not tell me about the fire until it was overcome. I then told her this was not about her children, there were no child endangerment issues here, and no one wanted to take her kids from her. Shortly after tearing down this roadblock she made her first admission against self interest.

I told her if she wanted forgiveness she would have to be totally truthful. The moment seemed right, so I asked her directly whether she had used a lighter or matches to start the fire. She responded that it was a lighter. I then asked her what she lit to start the fire. She said it was paper. I asked her what she did with the paper; she said she threw it. She was then asked whether she was in the storeroom when she did it, and she said she was. Finally, when asked why she did it, she answered that she was aggravated.
I left the examination room and the investigators went into the room. When the investigators entered the room, the examinee spontaneously stated “I didn’t mean for it to get that big.” They asked her to tell them again what had happened. She stated she lit the paper and threw it and thought it would go out. She claimed she “didn’t mean to hurt them people. There were kids in there.” (Big Lots) After the interview the examinee was put out into the lobby. Both investigators came back into my office and discussed whether or not to arrest the examinee. They decided to arrest her.

The State Journal published the story of Lynn’s arrest in the next edition. The paper quoted sources that Lynn was forced into a false confession by the police. Her father alleged Lynn was forced to make a confession after she failed a polygraph test. He was quoted as saying “they told her she could go home if she confessed, so she’s going to say something to get home.” Further he stated the police had been “hounding” her to take the test, but she failed not because she was guilty but because of anxiety problems. “I think they’re trying to find someone to blame and they picked her.”

On February 14, 2012, a suppression hearing was scheduled to consider whether or not the interrogation process had violated Kentucky Revised Statue 422.110 (Obtaining confessions by “sweating”). During the suppression hearing the investigator Detective Fogg, Intern Polygraph Examiner McPherson and I testified. Detective Fogg testified about the fire investigation; specifically when Ms. Lynn became the main focus of the investigation.

He also testified about when or if the posttest interrogation became custodial. McPherson testified about the polygraph test, consent form, voluntariness of the test and Miranda warning. He further testified about how many times he told the examinee she was free to leave during the posttest interrogation.

I testified about the confession, explained that part of the interrogation process is giving Lynn reasons that psychologically justify an action: accident, mistake, spoke about forgiveness, getting counseling. These are the interrogation themes I used. I also explained proxemics, how close you get to the interviewee during the interrogation. I will slowly move in until I am in the personal intimate zone, which is 12 to 18 inches from the interviewee. I further went into explaining that when I go into an interrogation I lower my chair to be less threatening, and I only show the examinee the palms of my hands because it is less aggressive posture. I also spoke about reaching out and making physical contact with the person being interviewed as a caring gesture, holding their hand while telling them everything will be ok. Finally, I explained that people confess their secrets in private with hushed whispers and don’t shout them out across the room.

When the court made its ruling the confession was upheld.

On May 11, 2012, the examinee, Angela Lynn, pled guilty to Arson and Wanton Endangerment. The plea agreement recommendation was for Lynn to serve five years on each charge to run concurrently.
Figure 1. This is the Acquaintance Test, conducted as the first chart.

Figure 2. Chart 2.

Editor’s note: All of the above charts have been modified.
Figure 3. Chart 3.

Figure 4. The fourth and final chart of the case.

Editor’s note: All of the above charts have been modified from the original settings and centering for publication purposes.
Differential Salience

by

Michael Lynch

Too Many Notes

MOZART: So then you like it? You really like it, Your Majesty?

EMPEROR: Of course I do. It’s very good. Of course now and then - just now and then - it gets a touch elaborate.

MOZART: What do you mean, Sire?

EMPEROR: Well, I mean occasionally it seems to have, how shall one say? How shall one say, Director?

DIRECTOR: Too many notes, Your Majesty?

EMPEROR: Exactly. Very well put. Too many notes.

MOZART: I don’t understand. There are just as many notes, Majesty, as are required. Neither more nor less.

EMPEROR: My dear fellow, there are in fact only so many notes the ear can hear…

(from the film Amadeus, 1984)

About the author: Michael Lynch, the author of this article, is a Primary Instructor with Marston Polygraph Academy. He can be reached at mlynch@lawyerspolygraph.com. The opinions and comments expressed in this article do not necessarily reflect those of Marston Polygraph Academy or the American Polygraph Association.
It all started with the Relevant/Irrelevant test format. Reaction was equated to deception and absence of reaction was equated to truth. It was called ‘lie detection’ by the press and the name has since permeated the public image.

Until the late 1980’s, polygraph formats had been subjected to little or no statistical scrutiny. Many were driven by name ego or school doctrine. The Employee Polygraph Protection Act (EPPA) of 1988 forced the profession to prove the reliability and validity of polygraph testing. The profession could no longer claim efficacy by name association or field success rates.

After 1989, polygraph reliability and validity migrated from the universities, which until then had been the only source of academic inquiry, to the laboratories of the Department of Defense Polygraph Institute (DoDPI) or what is now the National Center for Credibility Assessment (NCCA). It was a matter of money. The federal government had money and the universities did not. Polygraph had to prove itself and science is expensive.

During the past 20 years or so, research has clearly shown many polygraph formats have reliability and validity far above chance levels. Some formats have been tested and found to not have the same degree of reliability as previously supposed by their authors. Today, we have approximately 40 to 50 test formats and their variations. Some of these test formats were derived from current research, some are holdovers from ages gone by and some are variations on both. Do we really need all these test formats?

Perhaps the Utah Zone Comparison format can solve evidentiary (single issue) problems, the Air Force MGQT format can solve investigative (multiple / mixed issue) problems and the Law Enforcement Pre-Employment Test (LEPET) format can effectively screen job applicants. Other test formats are popular and sometimes useful. Sadly, popularity and usefulness do not equate to reliability and validity.

In the movie Amadeus, the king voiced objection to one of Mozart’s operas. Mozart asked the king to be more specific. The king answered “Too many notes.” Sometimes in our haste to please polygraph egos and school doctrine, we lose sight of the KISS principle (Keep It Simple Stupid).

Polygraph really boils down to researched investigative and evidentiary test formats. These are the formats the research will support and the profession needs to employ. All else is perhaps ‘too many notes.’ There are, in fact, only so many notes the ear can hear.
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