Inside this Edition

Part II of a special series on EPPA

“Them Polygraphs Don’t Work”

Examining Our Methods

“Sensitivity & Specificity in Polygraph Testing,” p. 30
Contributors to this issue

Robbie Bennett
Barry Cushman
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Deadlines
This issue closed on January 7, 2010.
Deadline for March/April issue is March 7, 2010.

Submission of Articles
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Trust, but verify
Welcome to the first APA Magazine of 2010. This year the APA Publications continue to carry the informative articles sent in by Association members. We hope you find them helpful. Some readers may find the authors have challenged their assumptions about the field while others see the articles as a positive sign for the profession. What do you think? Send your comments and critiques to me at Editor@polygraph.org.

Also remember that we are actively soliciting articles from the membership on courtroom testimony for the journal Polygraph. If you have experiences to share with your fellow professionals, please put them in writing and send them in.

My best wishes to everyone for a healthy and prosperous new year.

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Mentors Wanted

The APA is considering the feasibility of a mentorship program but this will never happen without the support of our more experienced members. We are building a standing list of mentor volunteers. If you have five years or more experience and are interested in giving back to our profession, please contact the mentorship committee by email: polygraphman@hotmail.com

Quotables

If I have seen farther than others, it is because I was standing on the shoulders of giants.

- Isaac Newton
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(Tentative) November 8 – 12, 2010

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(Tentative) March 22 – 26, 2010 (Taught to both JPCOT & APA Standards)

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Virginia Polygraph Association Elects New Officers

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Director  Bill Henley  
President  John Patterson  
Vice President Police  Ed McDowell  
Vice President Private  Edward Haith  
Vice President Government  open  
Sec/Trea  Alan Moore

New PCSOT Text Available

Now available, a new text on PCSOT titled The Use of the Polygraph in Assessing, Treating and Supervising Sex Offenders, edited by Dr. Daniel T. Wilcox. It contains 14 chapters from recognized experts in the study of sex offenders, offender management, polygraph and advanced technologies. To order the book or to read a chapter excerpt, visit the publisher’s website at www.wiley.com. Also available at Amazon.com and many bookstores.

Call for Papers

In 2010 the APA will publish a special edition on courtroom testimony. We are actively seeking original works that will assist APA members in the preparation, conduct, reporting, and testimony of polygraph examinations for court purposes. Areas may include, but are not restricted to PCSOT exams, evidentiary exams, Paired (Marin Protocol) Testing, stipulated exams, and court-ordered exams. Manuscripts will be accepted until September 1, 2010. Please send electronic copies to Editor@polygraph.org, or to PO Box 10411, Ft. Jackson, SC 29207.

William J. Yankee Scholarship Award

The William J. Yankee Scholarship is now open for the 2010 calendar year. Candidates must have a 4-year college degree, and submit a packet to the National Office by June 1st. The packet must include a cover letter as well as an essay on the polygraph or related areas. Candidates must also have their college transcripts sent directly from the institution to the National Office. A committee, chaired by the APA Editor, will review the packets and recommend a choice to the APA Board of Directors. The selectee must use the award monies toward an APA accredited polygraph school, but may not use them for training already started. For more information send an e-mail to Editor@polygraph.org, or call (803) 463-1096.

If your association has election of officers or other important announcements, please notify the APA Magazine. Send them to: Editor@polygraph.org.
Polygraph Examiner
Training Schedule

Academy for Scientific Investigative Training

March 15 - May 7, 2010
May 17 - July 9, 2010
September 13 - November 5, 2010

PCSOT
March 8 - 12, 2010
July 12 - 16, 2010
November 8 -12, 2010

Advanced PCSOT
May 12 - 14, 2010

Forensic Assessment Interviewing & Interrogation Techniques (FAINT)
March 29 - April 2, 2010
June 7 - 11, 2010
September 27 - October 1, 2010

American International Institute of Polygraph

April 12 - June 18, 2010 (10 weeks)
April 20 - June 4, 2010 (8 weeks)
May 15, 2010 (Saturday classes begin)
June 7 - July 30, 2010 (Ohio)
August 30 - November 5, 2010 (10 weeks)
August 30 - October 22, 2010 (8 weeks)
September 25, 2010 (Saturday classes begin)

Advanced PCSOT and Advanced Polygraph
August 9 - August 13, 2010

Defense Academy for Credibility Assessment

April 27 - July 28, 2010
August 17 - November 18, 2010

International Academy of Polygraph

February 1 - March 26, 2010
April 26 - June 18, 2010
September 20 - November 12, 2010

Latinamerican Polygraph Institute

February 1 - April 23, 2010 (Day session)
March 8 - June 25, 2010 (Night session)
March 31 - August 22, 2010 (Day session)
August 23 - December 10, 2010 (Night session)
September 13 - December 15, 2010 (Day session)

Advanced Courses

PCSOT
February 17 - February 21, 2010

Interview and Interrogation Techniques
March 15 - March 26, 2010
September 6 - September 17, 2010

Polygraph Techniques and Chart Interpretation
April 1 - April 6, 2010
September 20 - September 25, 2010

Advanced Course in Polygraph Techniques
May 3 - May 8,
August 23 to August 28

Maryland Institute of Criminal Justice

March 29 - May 21, 2010
April 5 - May 28, 2010 (Lafayette, IN)
September 20 - November 12, 2010

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March 8 -12, 2010
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Seminar Chair: Robbie S. Bennett – 800/272-8037, 423/892-3992  FAX: 423/894-5435
Seminar Program Chair: Vickie Murphy-Carr-410/987-6665
Each registered person will be provided handout material; ID badge and tickets to all APA sponsored events.

IMPORTANT: The pre-registration discount is good only if payment is received on or before August 25, 2010.

Registration Hours – Sunday, 9/12/10 (10:00 am-6:00 pm)
On-Site – Monday, 9/13/10 (8:00 am -12:00 Noon)
Seminar Sessions – Monday-Friday, 9/13/10 – 9/17/10

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 08/25/10 for applicable discount. Payment information and registration received after 08/25/10 will be charged the on-site fee.

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CITY/STATE____________________________________________________________ CHILDREN/AGES________________________
NAME OF GUEST(S)________________________________________________________ NAME BADGE (CALLED BY)________________________
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$350 – Member/Applicant _____
$475 – Member/Applicant W/Guest _____
$475 – Member/Applicant W/Guest _____
$50 – Non-Member _____
$625 – 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.

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(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).
SIGNATURE______________________________________________________2010

APA Cancellations Refund Policy:
Cancellations received in writing prior to 08/25/10 will receive a full refund. Persons canceling after 08/25/10 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

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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)

*UP TO 100 GUESTROOMS WILL BE AT THE PREVAILING FEDERAL PER DIEM RATE.

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.
Upcoming Seminars

The American Polygraph Association and the New Mexico Society of Forensic Polygraphers will conduct a training seminar on **February 10-12, 2010** in **Albuquerque, NM**. Topics include Computerized Scoring; Chart Interpretation; Directed Lie Control Testing Technique and Physiology. Additional information and registration are found on pages 16-17 of this issue.

**The American Polygraph Association** is sponsoring an Asia-Pacific Seminar on **April 12-16, 2010** at the Conrad Centenniel Hotel in **Singapore**. See pages 20-21 for agenda and registration form.

The California Association of Polygraph Examiners (CAPE) will be conducted a Training Seminar on **March 5-6, 2010** (Fr-Sat) at the **Disneyland® Resort in Anaheim, CA**. A contracted room rate has been arranged at the Disney’s Paradise Pier® Hotel, 1717 South Disneyland Dr. Anaheim, CA 92802.

A hotel weblink, registration and course outline information is available at the CAPE website (www.californiapolygraph.com).

The Kentucky Polygraph Association, Inc. will present their 2010 Polygraph Seminar on **March 17-19, 2010** in **Gatlinburg, TN**. Accommodations are at the Clarion Inn and Suites, 1100 Parkway, Gatlinburg, Tennessee 37738 and reservations can be made by calling 800-933-0777, ext: 135, Reservation Code: KPA Polygraph Seminar.

The Early Seminar Registration Fee is $175.00 (received by February 28, 2010) or $200 at the door. Checks should be mailed to: Kentucky State Police, ATTN: Polygraph Section, 100 Sower Blvd, Suite 102, Frankfort, KY 40601 (checks payable to KPA, Inc.). If an invoice is needed for payment please contact the Kentucky Polygraph Association at 502-573-2100 and/or john.fyffe@ky.gov

The AAPP announces its 2010 Annual Training Seminar, co-sponsored by the Tri-State Polygraph Association (Missouri, Kansas, and Nebraska), which will be held **May 3 - 7, 2010** at the St. Louis Union Station Marriott in **St. Louis, Missouri**. An AAPP room rate is available for $105.00 + tax, and reservations can be made by calling 1-800-410-9914. Seminar information and registration is available at www.policepolygraph.org.

The Escambia County Sheriff’s Office in Pensacola will be hosting a Senior Polygraph Examiners Training Course from **May 24th thru May 28th, 2010**. There is no cost for this class, the training is FREE. However, persons attending will be responsible for their own food, lodging, etc. This course is only open to current law enforcement examiners. This course is being sponsored by the Drug Enforcement Agency (DEA) and the instructors will be from the Defense Academy for Credibility Assessment (DACA). Registration form can be obtained from the DACA website (http://www.daca.mil/docs/DACA%20CE%20Application.pdf). Please complete it and email it back to ScottC@daca.mil.

Once you register please contact Mark Brown (850-393-9529 or citypopo7@yahoo.com) with your name and contact information so you can be placed on his roster to receive information on the seminar and lodging deals in the area. Please contact Mark with any questions about this course.
The APA has entered into a multi-year contract with Hilton Hotels to host its Annual Seminar and General Membership Meetings for 2011, 2012 and 2013. Locations are: 2011 in Austin, Texas; 2012 in San Diego, California; and 2013 in Orlando, Florida. The Seminar dates and hotels are:

Hilton Austin  
September 11 - 16, 2011

Hilton San Diego Bayfront  
September 16 - 21, 2012

Orlando Hilton Bonnet Creek  
September 8 - 13, 2013

By negotiating a multi-year contract the APA was able to obtain very favorable concessions for APA members at some of Hilton’s newest and most prominent properties. All seminar attendees, whether government or private, will pay lodging rates based on the U.S. Government Accounting Services prevailing lodging per-diem for that area. These rates are currently, before tax: Austin ($121); San Diego ($147); and Orlando ($108). These rates are also available to attendees who wish to arrive or leave a minimum of two days before and/or after the seminar based on availability. All attendees will receive free in-room internet, free fitness center admission and discounts for parking. Resort fees, if any, will be waived for attendees. Other attendee benefits will also be offered based on the individual hotel location.

Some highlights regarding these properties are:

Hilton Austin:  
(512) 482-8000. The Hilton Austin hotel is located in down-town Austin. The hotel is only one block from Austin’s famous Sixth Street nightlife and a short stroll to the entertainment, shopping and dining in the Warehouse Entertainment District and 2nd Street District. The location is also convenient to many attractions such as the Capitol Building, Bob Bullock Texas Historical Museum, the University of Texas and the LBJ Presidential Library. The hotel is also only seven miles from Austin Bergstrom International Airport.

Hilton San Diego Bayfront: (619) 564-3333. The Hilton San Diego Bayfront is a new premier hotel located in downtown San Diego along the San Diego Bay. The hotel is minutes from the San Diego International Airport and within walking distance of the vibrant Gaslamp Quarter boasting world-class shopping and dining. It is also within walking distance of the San Diego Padres’ PETCO Park and the financial district.

Hilton Orlando Bonnet Creek: (407) 597-3600. The Hilton Orlando Bonnet Creek is a new world class Florida hotel which opened in the Fall of 2009. It is one of the largest hotel developments by Hilton and is adjacent to the first-ever newly built Waldorf Astoria outside of New York. It is located in a private natural setting on 482 acres and surrounded on three sides by the Walt Disney World® Resort. Complimentary shuttle service to the Walt Disney World attractions is provided by the hotel. Located on site is a championship golf course designed by Rees Jones for which attendees will receive discounted greens fee. Also on site are unique nature preserves. There is a free form...
lagoon-style pool with zero entry pool and waterslide. For families there is Kids Club with supervised indoor and outdoor activities. The Hilton and the Waldorf Astoria offer a combined 12 restaurants and bars.

The APA is already planning programs and additional events for these seminars. While the APA has contracted for over 350 rooms during peak seminar dates it is anticipated that these will be will be popular seminars and that we will fill these room allotments. Early reservations are encouraged. You may make reservations for any of these seminars now by contacting the hotels at the telephone numbers provided and informing them that you are making reservations with the APA group. The hotel will require a deposit for one night to hold your reservation and will provide to you information about cancellation policies. Generally, these policies provide for a refund of the deposit for cancellations received prior to 72 hours before the scheduled arrival.

**WANTED: Door prizes for the APA Annual Seminar!**

For more information contact Seminar Program Chair, Vickie T. Murphy-Carr, mdmicj@aol.com or 410-987-6665.
THE AMERICAN POLYGRAPH ASSOCIATION (APA)  
CONTINUING EDUCATION SEMINAR  
CO-SPONSOR NEW MEXICO SOCIETY OF FORENSIC POLYGRAPHERS  
FEBRUARY 10 – 12, 2010  
ADVANCED REGISTRATION IS REQUIRED

APA FED ID # 52-1035722

FEBRUARY 10, 11 & 12, 2010  
1:00 PM - 5:00 PM, WEDNESDAY, FEBRUARY 10  
8:00 AM – 5:00 PM, THURSDAY, FEBRUARY 11  
8:00 AM – 5:00 PM FRIDAY, FEBRUARY 12

CONTINUING EDUCATION SEMINAR:  
COMPUTERIZED SCORING; TEST DATA  
ANALYSIS; DIRECTED LIE CONTROL  
TESTING TECHNIQUE AND PHYSIOLOGY

CONTINUING EDUCATION CREDITS  
When you attend this seminar, you receive up to 20 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 1/30/10, will  
receive a full refund. Persons canceling after 1/30/10, 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

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 ______________________________________ CVV2______________ EXP.__________

(CVV2 is a 3 or 4 digit number found on the back of your credit card. AE number is on front of card)

SIGNATURE _____________________________________________________________

CES-Albuquerque, New Mexico (2/10-12, 2010) (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).  2010
WEDNESDAY, FEBRUARY 10, 2010

11:00 AM LATE REGISTRATION

1:00 PM OPENING CEREMONIES:
ERIC LUCERO, PRESIDENT
NEW MEXICO SOCIETY OF FORENSIC POLYGRAPHERS

1:15 – 5:00 PM DIRECTED LIE CONTROL TESTING TECHNIQUE
MARTY OELRICH, APA DIRECTOR

3:00 -3:15 PM BREAK

THURSDAY, FEBRUARY 11, 2010

8:00 AM – 12:00 NOON DIRECTED LIE CONTROL TESTING TECHNIQUE (CONTINUED)
MARTY OELRICH

9:30 AM – 9:45 AM BREAK

12:00 NOON – 1:15 PM LUNCH ON YOUR OWN

1:15 PM - 5:00 PM EMPIRICALLY BASED MANUAL TEST DATA ANALYSIS AND
COMPUTERIZED SCORING
RAYMOND I. NELSON

3:15 PM - 3:30 PM BREAK

FRIDAY, FEBRUARY 12, 2010

8:00 AM – 12:00 NOON EMPIRICALLY BASED MANUAL TEST DATA ANALYSIS AND
COMPUTERIZED SCORING (CONTINUED)
RAYMOND I. NELSON

9:45 AM – 10:00 AM BREAK

12:00 PM – 1:15 PM LUNCH ON YOUR OWN

1:15 PM - 5:00 PM PHYSIOLOGY
PAM SHAW, APA VP-LAW ENFORCEMENT

3:00 PM - 3:15 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.
LATINAMERICAN POLYGRAPH INSTITUTE
AND
CATHOLIC UNIVERSITY OF COLOMBIA
WORLD CONGRESS ON
FORENSIC SCIENCES AND POLYGRAPH

CARTAGENA-COLOMBIA
OCTOBER 28, 29 AND 30, 2010

- FORENSIC CREDIBILITY ASSESSMENT (POLYGRAPH)
- FORENSIC SCIENCES IN PSYCHOLOGY, PSYCHIATRY, GENETICS, BIOLOGY, MEDICINE, AND ODONTOLOGY
  - CRIMINALISTICS: CRIMINAL INVESTIGATION, CRIME SCENE INVESTIGATION
  - FORENSIC ANTHROPOLOGY, GEOLGY AND ARCHAEOLOGY
    - FORENSIC ENGINEERING
    - FORENSIC ACCOUNTING
  - DIGITAL & MULTIMEDIA SCIENCES
  - FORENSIC MANAGEMENT OR ADMINISTRATION
  - FORENSIC EDUCATION

PBX:(571)2369630 Telephone: (571) 2369628-2369630
305-3424077
Email:congresoforensicemundial@gmail.com
lp2007@gmail.com
APA Asia-Pacific Seminar
April 12-16, 2010
Conrad Centennial Hotel, Singapore

Contact Information: APA National Office, P.O. Box 8037, Chattanooga, TN 37414-0037
Toll Free: 1-800-272-8037, Fax: 423-894-5435

Registration Deadline: February 12, 2010

Please see registration form for seminar cost and hotel information
ASIA-PACIFIC SEMINAR AGENDA
April 12-16, 2010

SEMINAR TOPICS
Diagnostic Dialogue
Test Question Construction
IZCT Format
Test Data Analysis
Ethics & Standards
Setting Comparisons
MGQT & Zone Test Formats
Semi-Structured & Structured Interviewing
Instrument Manufacturer Updates & Training

SPEAKERS
Dan Sosnowski
APA President

Nate Gordon
APA President-Elect

Michael Gouger
APA Chairman of the Board

Bill Teigen
APA Vice President Private

Marty Oelrich
APA Director

Chad Russell
APA Treasurer

Pam Shaw
APA Vice President Law Enforcement

*Topics and speakers are tentative and subject to change.*
THE AMERICAN POLYGRAPH ASSOCIATION (APA)  
CONTINUING EDUCATION SEMINAR  
ASIA-PACIFIC SEMINAR APRIL 12 – 16, 2010  
ADVANCED REGISTRATION IS REQUIRED

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<td><strong>REGISTRATION</strong></td>
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| **SEMINAR HOURS**       |
| 9:00 AM – 5:00 PM – TUESDAY-FRIDAY |
| APRIL 13-16, 2010       |

| **LODGING**             |
| CONRAD CENTENNIAL SINGAPORE |
| TWO TEMASEK BOULEVARD |
| SINGAPORE 038982 |

| To make Hotel Reservations: |
| CALL : 65-6432 7192 / FAX 65 6432 7198 |
| Individual Reservations - Cut-off date: March 25, 2010 |

| **GROUP ROOM RATE** |
| SINGAPORE $250.00 PER ROOM PER NIGHT |
| (Exchange rates equate to approximately US$178.57) |

| **SEMINAR FEE** |
| PRE-PAID BY FEBRUARY 12, 2010 |
| $1500.00 (US FUNDS) APA Member/Applicant |

| **PRESIDENT’S RECEPTION** |
| MONDAY, APRIL 12, 2010 |
| 6:00 PM – 10:00 PM |

| **BANQUET** |
| THURSDAY, APRIL 15, 2010 |
| 6:00 PM – 10:00 PM |

| **CONTINUING EDUCATION CREDITS** |
| When you attend this seminar, you receive up to 28 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 02/12/10, will receive a full refund. Persons canceling after 02/12/10, will not receive a refund but will be provided with the handout material. |
| (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** |
| **IN ORDER TO HAVE ADEQUATE SEATING, ADVANCED REGISTRATION IS REQUIRED** |

| 1-800-272-8037 or 423-892-3992 |
| FAX 423-894-5435 |

TO REGISTER FOR THE SEMINAR, PLEASE COMPLETE AND MAIL THIS FORM TO:  
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NUMBER ______________________________________   CVV2 ___________   EXP. ____________

(CVV2 is a 3 or 4 digit number found on the back of your credit card. AE cards on front of card)

SIGNATURE _____________________________________________________________

CES-ASIA-PACIFIC SEMINAR, April 12-16, 2010 (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). 2010
American International Institute of Polygraph

Mailing Address: PO Box 688, Morrow, GA. 30260-0686
Physical Address: 1115 Mount Zion Road Suite F, Morrow, GA 30260
Phone: 886.477.5180 Fax: 770.960.1355
Email: AIIIF@Qpolygraph.com

BASIC - 2010 - United States

Professional Polygraph Examiner's Basic Training Program

Winter 2010 Class
Schedule 1: January 4 - March 12, 2010 (Morrow-Atlanta, GA) 10 weeks
Schedule 2: January 4 - February 26, 2010 (Morrow-Atlanta, GA) 8 weeks
(Saturday class: January 30; however, NO classes on February 8)

Spring 2010 Class
Schedule 1: April 12- June 18, 2010 (Morrow-Atlanta, GA) 10 weeks
Schedule 2: April 20- June 4, 2010 (Morrow-Atlanta, GA) 8 weeks
(Saturday class: May 15; however, NO class on May 31)

Summer 2010 Class (West Chester, Ohio)
ONLY Schedule 2: June 7 - July 30, 2010 - 8 weeks only

Fall 2010 Class
Schedule 1: August 30 - November 5, 2010 (Morrow-Atlanta, GA) 10 weeks
Schedule 2: August 30 - October 22, 2010 (Morrow-Atlanta, GA) 8 weeks
(Saturday class: September 25; however, NO class on September 6)

ADVANCED POLYGRAPH & PCSOT

BASIC PCSOT - 40 Hour Course - $500
January 25 - January 29, 2010

Comfort Suites by Choice Hotels
1444 Southlake Plaza Drive
Morrow, Georgia 30260

Advanced PCSOT - 20 Hours - Advanced POLYGRAPH - 20 Hours
Course Fee - $100 a DAY

August 9 - August 13, 2010
1115 Mt Zion Road Suite F
Morrow, Georgia 30260

August 9th & 10th – 8 hours Advanced Polygraph
August 11th – 4 hours Advanced Polygraph & 4 hours Advanced PCSOT
August 12th & 13th - 8 hours Advanced PCSOT
Legislative Update

Stanley Slowik

Employment Non-Discrimination Act

S.1584 has been introduced by Sen. Merkly (D-OR) and H.R.3017 by Rep. Frank (D-MA) that would prohibit employment discrimination based not only on sexual orientation but “gender identity.” The concept of “gender identity” does not have any biological or specific definition, appears to be almost anything a person independently decides it to be and therefore may prove problematic with regard to equal and consistent treatment in selection and promotion. Since these bills would expand the grounds upon which rejected candidates can allege discrimination by expanding the categories of Protected Groups but since “gender identity” is, at best, an ill defined group, examiners should endeavor to apply elicitation techniques to obtain recent, performance related admissions when deceptive responses occur during screening examinations. In the absence of admissions, examiners should apply the successive hurdles approach, in effect eventually converting the general screening examination into a specific issue examination where examination validity and reliability is easier to defend.

Arthur L. Lewis v. City of Chicago

In Ledbetter v. Goodyear, the Supreme Court agreed with the 7th Circuit in determining that allegations of discrimination filed after the required 300-day limit are untimely and therefore dismissed. As a result, Congress recently passed the Ledbetter Fair Pay Act, which, in effect, greatly expands the time during which applicants can legally file complaints of discrimination. However, in Ricci v. DeStefano (2009), the Supreme Court determined that the tradition application of adverse impact based upon the 4/5ths Guideline (the complainant’s group’s “pass” rate is less that 80% of whatever group as the best “pass” rate) may not be sufficient to disregard selection or promotion test results unless the employer can also demonstrate a “strong basis in evidence” that it would be liable for disparate impact discrimination. Lewis applicants for Firefighter positions with the City of Chicago scored in the “qualified” category but waited 420 days instead of the required 300 days to file a complaint, after they discovered that the positions were all filled by applicants from the “well qualified” category. Since there was statistical racial disparity between the two categories, the Supreme Court’s decision to review Lewis may resolve the conflicts for both the time-barred and numerical disparity guidelines. This in turn should provide guidance when adverse polygraph results or disqualifying admissions generated as a result of negative polygraph opinions result in statistical disparity for Title VII Protected Groups.

Mandatory Collective Bargaining

HR 412, the “Public Safety Employer-Employee Cooperation Act” introduced by Rep. Kildee (D-MI) and passed overwhelmingly by the House has now been joined by S1611, introduced by Sen. Gregg (R-NH). These bills not only expand the type and number of employees beyond the traditional police, fire and corrections but require states to create collective bargaining laws while simultaneously creating a new federal agency to make sure states comply with this newly mandated federal law. This represents an unprecedented intrusion by Congress into state and local government control over many public safety issues. Historically, collective bargaining in public safety has resulted in severe restrictions on the use of polygraph.
I hope that everyone was able to enjoy the holidays with their families. Now that the holidays have come and gone, it is time to get back to business for everyone. I certainly hope that 2010 brings more prosperity to everyone.

The Board of Directors has been busy getting ready for the next winter board meeting that will be held at the site of the 2011 Annual Conference in Austin, Texas. As you will read, the APA has selected future sites for the Annual Conference regarding the years 2011, 2012 and 2013. By doing so now, the APA was able to obtain very good rates at great venues. Gordon Vaughan and Miss Robbie have spent a lot of their personal time to negotiate these rates with the individual hotels. We believe that by locking in dates and locations in advance, our members will be able to plan better.

Pam Shaw is still working very hard at assembling the first ever International APA Conference. The conference is scheduled to take place in Singapore, April 12-16, 2010. We are also hoping that examiners from the Southeast Asia region will attend the conference and partake in an excellent opportunity to gather and exchange ideas.

The next APA Annual Conference is scheduled for September 12-17, 2010 and will be held in Myrtle Beach, SC. The facility at the Hilton Hotel is a very nice venue especially since the hotel is located on the beach. Vickie Murphy-Carr has put together a very impressive agenda together thus far. If anyone has ideas for topics or speakers, please contact Vickie.

Your Board members have been working with their respective committees, and you can read about their progress described under their Board reports.

Thanks again for the opportunity to represent this fine organization and its members.

Public Relations and Information Committee

Fishy Story
As many examiners know, polygraph is robust and has many uses. Here is one recent use of polygraph that was conducted over in Japan. Big-fish tales don’t float off easy. Especially when they involve a largemouth bass that tipped the scales at 22 pounds, 4 ounces. This month, the International Game Fish Association verified that a fisherman in Japan had, while fishing with a live bluegill as bait in July, reeled in a largemouth that weighed the same as the record bass hauled in here in 1932. Last month, the association went so far as to polygraph the fisherman there before certifying that the record, considered the most coveted in all of sport fishing, had indeed been matched.

Police pre-employment lands a big one
An individual who applied for a job at the Escambia County Sheriff’s Office was arrested after he admitted to having child pornography on his computer during his job interview. The applicant was arrested by the state Attorney General’s CyberCrime Unit on one count of possession of child pornography, a third degree felony. Additional charges may be added at a later date. The applicant was undergoing a pre-employment polygraph test when he admitted to having child pornography on his computer. Investigators seized a computer from the applicant’s residence and conducted a forensic analysis to confirm child pornography was on the computer.

Can mandatory polygraph testing beat Russian corruption?
In the latest effort to crackdown on high-level corruption, Russia has finalized draft legislation that will make polygraph testing a mandatory requirement for high-level officials. For some government officials, the prospect of spending an afternoon in the dentist’s chair with their mouth pried open may sound more appealing than sitting through a polygraph test. But that is exactly what may coming down the pipe as Russia continues its bold mission of sweeping out the halls of power.
S-M-A-R-T GOALS

From the Board

Pam Shaw
Vice President, Law Enforcement

I hope you take the time to write down your goals, and succeed in accomplishing them this coming year. I wish you and yours a Happy Holiday and a healthy and prosperous New Year!

Hello again! I hope everyone is off to a great start in 2010! The continuing education committee is continuing to make preparations for the first-ever APA Asia-Pacific Seminar to be held in April. As stated in my last report, this endeavor began as a result of the Board being asked to attempt something new on an international level. The concept is similar to co-hosting with state associations, but obviously the location is well beyond national borders. We are extremely hopeful that this will benefit our polygraph community on many levels. I’ll spare you repetition from my last journal article, but please take a moment to visit the APA website for further seminar information and registration forms.

Also, as always, the APA stands ready to assist our community with continuing education endeavors. If your state is planning and preparing for educational seminars in 2010, please contact me to see if the APA may be able to assist in finding speakers, locations or recruitment of attendees. Co-hosting is a wonderful opportunity to have a great seminar for your state with maximum benefit and reduced strain on your executive personnel. If you would like additional information, please let me know.

Thank you for your continued support!

Nate Gordon
President Elect

As we start the New Year I suggest everyone write down their goals for 2010. They say tomorrow’s apple trees depend on the seeds we plant today. By establishing S-M-A-R-T Goals you are much more likely to achieve success. What are S-M-A-R-T Goals? These are goals established in a way that make them obtainable:

SPECIFIC: You must be able to articulate WHAT you are going to do, WHY it is important to you, and HOW you plan on accomplishing it. For a private examiner, the “WHAT” may be to increase business. The “WHY” may be economical survival. The “HOW” maybe to send out five flyers a week to prospective clients and follow them up with phone calls.

MEASUREABLE: If you cannot measure it, you have no idea of whether you are accomplishing anything. For example, staying with my above goal, I want to increase my clientele by 20% in 2010. If I currently have 50 clients that means I need 10 new clients by the end of the year. My goal then is to sign up one new client each month.

ATTAINABLE: The goals you set must be attainable. They can push you, however if they are not attainable the chances you will stick to your plan is very unlikely. By having attainable goals, you have a built-in system to motivate you.

REALISTIC: Your goals should be difficult enough to give you satisfaction in achieving them, however, they must be realistic. Your plan for achieving the goal must be do-able! I may want to triple the amount of clients I have by the end of 2010, however, signing up three new clients every week would not be realistic to me.

TIMELY: GOALS without a time frame tend to be vague and lack action. GOALS without ACTION are only dreams! Having a time frame enables you to measure your progress. Like goals in general, the time frame should be realistic, and attainable.

I hope you take the time to write down your goals, and succeed in accomplishing them this coming year. I wish you and yours a Happy Holiday and a healthy and prosperous New Year!

Nate Gordon
President Elect

APA Magazine 2010, 43(1) 25
From the Board

William K. “Bill” Teigen
Vice President-Private

One of my appointed duties on your Board of Directors is to chair the Awards Committee. My Awards Committee members are good folks who know many examiners and their work and, they have agreed to “get their feet wet” in leadership duties in the APA while serving on this important committee. That latter function, getting their leadership feet wet, is my biggest responsibility in our organization; to do my part in mentoring future leaders in the APA.

The Awards Committee has received several qualified candidates for this year’s awards but the process is far from over. To save time in these selections our committee asks that you provide, not only a name of an APA member you would like to have recognized, but we ask that you also provide us with your justification for nominating that person. If we receive just a name, chances are good that your nomination may not make the cut as our committee considers all candidates. Our By-laws contain the qualifications for each award. Please refer to the By-laws before submitting your nomination.

Please send your nominations to me in care of the Awards Committee either through the National Office or to my email address, bteigen@aol.com. June 1, 2010, is our imposed deadline. Please give this your attention as we have many members who are worthy of recognition. Those of you in organizations of examiners get recognition when someone in your group is singled out for an award. Those of you, like me, that are a free-standing, single issue, examiner will need to be additionally involved in polygraph related activities to get recognition. That is a good thing and worthy of your consideration.

Licensing laws have been finalized in Texas and are beginning in the State of Maine. Texas made great improvements in their law and commission rules. Enforcement of the law and rules in Texas will change dramatically. Know your law and rules if examining in Texas and don’t think about doing the same in Texas if you are not licensed! Next year we will be able to address our licensing fees in Texas which should be drastically reduced.

Finally, I want to comment in a positive way about the diverse attitudes and skill sets that members of the APA Board possess and bring to our meetings to make decisions and guide the APA. It is impressive! The most recent work and accomplishment by the board is the selection and contracting of seminar sites for the next three years in venues we will REALLY enjoy! The board took advantage of an economy that allowed negotiations in site selection, package pricing, amenities provided, curb appeal and professional learning spaces provided by the venues. You will be impressed.

Thank you again for the opportunity to represent you as Vice President-Private.

Barry Cushman
Director

Hello again fellow APA members. I hope the New Year has found you well thus far. First, let me say thanks to all those who have taken the time to call or write to let me know you enjoyed reading my last article. I appreciate your support. I will be much briefer for this edition.

Things have been very busy – polygraph wise – up my way, most of which could be labeled as “administrative.” Currently there is legislation before our Public Safety Committee that would revamp the entire polygraph statute under which we now operate. Some of the language is good; most isn’t. I mention this for this reason: If you are experiencing anything similar, or if you’d like to introduce legislation (perhaps a licensing law), the APA stands ready to assist you if possible. At this point I don’t know how things will go, but it is good to know the APA is here if I need them. The APA is here for you too. You’ve got to do a lot of leg work given the logistics of such a situation, but you’re not alone.

I’ve said this before, and it’s clear to everyone: times are tough, and money is tight. I understand if you’ve got to pinch pennies and avoid travelling this year, but please remember your priorities. As an examiner, you owe it to yourself, your employer and your consumers to maintain proficiency and keep up with the latest in polygraph science. As a result, polygraph training should be high (but not at the top, I know) on your list. This year’s seminar is again gearing up to be excellent, so if you can make it, I’d encourage you to start budgeting now. If not, consider working with your local association (or the nearby examiners you can round up) and the APA to bring training to your area to save on travel costs. If even that isn’t a possibility (but don’t dismiss it without calling the APA and looking into it), then ask yourself who in your area has expertise in any area that he or she could share with others. Get together and put on your own, informal seminar. Even if a few of you reported on some of the more recent studies found in our journal or any scientific journal, you’d
gain something. Another option I found people really enjoyed when I did it here was a morning of chart scoring. I got a bunch of confirmed charts (DI and NDI), some easy and some tough, mixed them up and then projected them on a screen and let people score them individually. Then, we talked about our scores. What I found was that it built confidence in assigning scores in some situations. It also helped reinforce the need to stick to the empirically based rules of scoring. Countermeasures are always a hot topic too. Once we had different people try different CMs encouraged on the web, and we projected the charts out of the vision of our lab rat. One man’s chart tracings on a toe press are not necessarily that of another. My point is this: we want to see you at our seminar in 2010 if at all possible, but you’ve got options if you can’t make it.

Let me once again wish you all a happy and prosperous 2010, and, as always, if there is anything I, or any of us on the APA Board of Directors can do for you, please let us know. Godspeed.

Chuck Slupski
Director

As a Director, I have been assigned to serve as General Chair of the PCSOT, QC, and Standards of Practice Committees.

On July 31, 2009 the APA Board approved a Post Conviction Sex Offender Testing (PCSOT) Operational Policy which details how APA members apply to receive APA recognition of 40 hour PCSOT training programs, the necessary qualifications of those involved in conducting said training, the curriculum of said training program, an APA written examination for members and those applying for APA membership upon attending the training, and a re-training / re-testing process for those needing a little more time to meet the minimum standard. Those programs and instructors previously recognized by the APA are required to re-submit their programs and instructor qualifications to confirm they are consistent with the new Operational Policy. Subsequent to the adoption of the new policy, several previously recognized programs have been submitted to the PCSOT Committee for approval. I expect to announce approval of these programs and instructors in the next APA Magazine.

Post Conviction Sex Offender Testing Committee

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Darryl Bullens
Lawson Hagler

Erik Abel
Don Grubin
Bonni Snider
Kenneth E. Nelsen
Raymond Nelson
Raymond Ham, Jr.
Thomas G. Ivey
Patrick J. Pond
T.V. O'Malley
Larry L. Groseclose
Raymond E. Solt
Bryant Crosby
Dan Sosnowski

The PCSOT Committee is currently developing additional training and testing materials to assist in updating and further standardization of APA recognized training programs.

On July 31, 2009 the APA Board approved an Ad-Hoc Quality Control Committee. To date, members have requested only a few quality control reviews and are encouraged to take advantage of the knowledge and experience of the QC Committee.

The Quality Control (QC) Committee was established as an Ad Hoc Committee to serve the member that voluntarily seeks a review of a conducted polygraph examination. APA members are encouraged to submit to QC review those conducted exams that may be an issue at a judicial proceeding. Committee support to the membership is consistent with ASTM requirements that examinations used during evidentiary proceedings be submitted for QC review by someone who has formal training in the technique and/or format used during testing.

The Committee may assist when APA members are unable to find another examiner to conduct a quality control review necessary to fulfill the May 26, 2009 By-Laws addition concerning Quality Control, which reads “3.10.6 Examiners conducting polygraph examinations should annually submit to a quality control review of their work product. The submitted examination should be recorded in its entirety unless precluded by law or government policy, or it should be witnessed in its entirety by the reviewing examiner.” Additionally, the Committee will review tests involving suspected countermeasures and otherwise assist the membership with test question construction and technique selection issues, as time permits.

The QC effort will not result in an APA declaration that an examination is valid or not valid. It will consist of documenting a comparison of the submitted examination to professional, published standards and protocol, and otherwise serve to
assist member examiners by expressing an opinion as to whether or not the reviewed examination meets the professional standard.

This QC service is available to the membership at no cost, unless the QC official is required to testify. In that event, the APA member’s client must bear costs associated with that testimony.

Requests for reviews should be directed through the National Office to the Committee Chair, Mr. Elmer N. Criswell, Jr. Requests should include a copy of all documentation associated with the conduct of the examination, to include a complete audio-visual recording when available. Questions may be directed to Mr. Criswell via email at PolygraphQC@aol.com.

The APA By-Laws containing the standards of practice on the APA website are up-to-date. Members are encouraged to review them so minor changes made during 2009 are noted. Members are also requested to provide input concerning necessary and appropriate changes.

Please advise if I may assist you. Chuck Slupski, chuck@qpolygraph.com.

Attention: If you ran a high profile examination that would be educational and informative to your professional colleagues, the APA Magazine would be a great place to get the word out. These articles typically run about 1000 - 1500 words. The test charts are also helpful. If you have a case to share, send your article to Editor@polygraph.org.
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Sensitivity and Specificity in Polygraph Testing - What if? (Ten Reasons to Use a Zone Technique)

Raymond Nelson, Mark Handler, Barry Cushman and Marty Oelrich

Last November a 55 year old man followed the advice of his physician and underwent a radical prostatectomy (surgical removal of his entire prostate gland) after a positive PSA blood test result. The removal required an abdominal incision and a 10 day hospitalization because of complications secondary to the surgery. Side effects of the surgery include impotency and urinary incontinence. Prior to the surgery the man was employed as a lineman for an electrical company and earned over $100K per year with overtime. The incontinence, however, has made it impossible for him to remain out of doors for lengths of time and he was forced to resign. He now works from home selling used clothing on E Bay to allow him easy access to the bathroom. Prior to the surgery he endured radiation therapy as a precautionary measure. The side effects included loss of appetite, fatigue, skin reactions such as redness and irritation, rectal burning or injury, diarrhea, an inflamed bladder, and blood in his urine.

Following the surgery, pathologic examination found the removed prostate gland to be cancer-free. Unfortunately the physician who diagnosed the cancer relied on a test with high sensitivity but low specificity. The highly sensitive test was able to predict when cancer was present (true positive). However, weak specificity meant the test was poor at ruling out or predicting when the problem was not present, resulting in a substantial percentage of false-positive results. The patient in this case was rendered impotent, lost his job and became depressed as a result of a procedure undertaken following a false positive test result. The patient sued the physician for lost income and asked for punitive damages citing the physician should have known better than to rely on results from that particular test.

During the ensuing civil law-suit, the plaintiff’s attorneys brought to light that a better test was available, one with higher sensitivity and specificity. Under oath, the physician was compelled to admit that he had in fact read about the examination that was better able to diagnose when cancer was not present but stated he had not been “trained” in the newer test. The attorney asked the doctor if he recalled whether there was research to support the test he chose, and the good doctor had to concede that there was little empirical support for “his” test. The attorney went on to produce numerous data in support of the technique with higher sensitivity and specificity, all of which the doctor had to admit he was aware of. The doctor stood fast in his defense of the “statistically inferior” test. He told the court that when he was trained 15 years ago, this was the test his medical school taught.

At the conclusion of the hearing the judge summed the case facts up this way: The doctor was originally trained in a technique that he has used for the past 15 years. The doctor is aware of the specificity problem with the technique he is using. The doctor knows there is at least one technique with substantial scientific data to support increased specificity. The doctor has chosen to ignore the benefits of the increase in specificity derived from this test simply because he has not “been trained” in the newer technique. The doctor admits that he has not sought training and that such training would likely require little more than attending a four-hour continuing education seminar. The actions taken as a result of the false-positive result of this “statistically inferior” test resulted in irreparable harm to the plaintiff. The doctor tried to blame the surgeon for conducting the surgery, but the judge reminded the doctor it was he who made the diagnosis. The judge stated the doctor had a
professional responsibility to be able to defend the test he chose and the doctor’s defense of his choice was unpersuasive. Judgment for the plaintiff: ten million dollars!

What if the man in this story had been you, a friend or a loved one? Would you feel the judge correctly summarized the physician’s professional responsibilities? Should the physician have been allowed to claim a defense of being tied to the technique he had learned a decade-and-a-half earlier? Once he learned a more scientifically supported test existed, did the doctor have a professional responsibility to learn and use that test? Can the ethical dilemma of this hypothetical case inform the polygraph profession? We think so.

Faced with the need to conduct a polygraph examination on a known allegation or known incident, examiners have the choice of two celebrated and established approaches: a single issue Zone Comparison Technique (ZCT) stemming from the important work of Cleve Backster, or a Modified General Question Technique (MGQT) following the example set by John Reid. Though originally developed as discrete techniques themselves, the ZCT and MGQT have evolved into families of related ZCT and MGQT methods, based on the principles defined by Reid and Backster. Differences in these two families of comparison question polygraph techniques include the use of additional test questions, originally intended to address or stabilize some of the dynamic psychological issues that were thought to be at play during polygraph testing, and the use of time-barred comparison questions.

As with many matters of science, some hypotheses work and some prove only to be fancy ideas with apparent face validity but no real empirical usefulness. For example, we now know that outside issue questions do not contribute in their intended ways. Also, we have learned that time-barred comparison questions do not accomplish their desired objective, and that Reid-type comparisons are as good, and possibly superior in some ways, to time-barred comparison questions. The collective result of this knowledge is that our modern application and calculation of the potential for an erroneous test result, as required by legal standards for acceptance of scientific test data (e.g. Daubert). Another important difference is the volume of research and empirical support describing the accuracy characteristics of these two approaches to the comparison question polygraph test. However, it is the decision policies and calculation of the potential for an erroneous
... it is the decision policies and calculation of the potential for an erroneous test result, using inferential statistics, that will ultimately establish or refute polygraph as a form of scientific testing among its professional consumers.

Single-issue ZCT exams are not subject to the same mathematical complications as multi-facet and multi-issue exams, and error rates can be calculated much more simply. Moreover, there is emerging evidence that the practice of increased iterations (or presentations) of a single stimulus has the effect of ensuring a sensitivity rate that is equivalent to that of a broader multi-facet investigative exam. In other words, there is no loss of specificity to deception with a single-issue investigative or diagnostic polygraph compared to a multi-facet exam in which each distinct behavioral/role stimulus is presented fewer times. The real advantage of a single issue testing approach becomes evident when looking at specificity rates, with no increase in inconclusives among truthful persons with single issue exams.

These issues become obscured when we placate the desire for simplistic discussions about test accuracy and hold onto naïve hopes for a single numerical index to describe the array of factors...
that make up the accuracy profile of any test. Test accuracy is properly understood as indicating many things, including sensitivity (the ability to notice or detect the issue of concern when it is present), specificity (the ability to reject cases that do not include the issue of concern), inconclusive rates (which include separate rates of inconclusive results for true-positive and true-negative groups), overall decision accuracy (which is non-resistant again changes in incidence rates), positive-predictive-values (a non-resistant estimation that a positive result is correct), and negative-predictive-values (a non-resistant estimation that a negative result is correct), and unweighted accuracy (which may be more generalizable to circumstances with unknown or variable incidence rates. Traditional discussions about accuracy with inconclusives and accuracy without inconclusives provide a limited and incomplete picture of the accuracy characteristics of the polygraph test.

A recent series of Monte Carlo experiments provided the following accuracy profile for single issue ZCT exams using 10,000 iterations of a Monte Carlo space of 100 single-issue ZCT exams and an incidence rate that varied randomly around a specified mean of .5, while decisions were made using statistically optimized cut-scores and an empirically based simplified manual scoring procedure. (See Table 1.)

Table 1 - ZCT Monte Carlo Accuracy Profile w/ confidence intervals

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Estimate</th>
<th>95% CI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Correct</td>
<td>0.92</td>
<td>(.86 to .97)</td>
</tr>
<tr>
<td>INC overall</td>
<td>0.10</td>
<td>(.05 to .17)</td>
</tr>
<tr>
<td>INC Truthful</td>
<td>0.1</td>
<td>(.02 to .19)</td>
</tr>
<tr>
<td>Inc Deceptive</td>
<td>0.1</td>
<td>(.03 to .19)</td>
</tr>
<tr>
<td>Sensitivity</td>
<td>0.81</td>
<td>(.70 to .91)</td>
</tr>
<tr>
<td>Specificity</td>
<td>0.84</td>
<td>(.73 to .93)</td>
</tr>
<tr>
<td>FP</td>
<td>0.07</td>
<td>(.02 to .13)</td>
</tr>
<tr>
<td>FN</td>
<td>0.08</td>
<td>(.02 to .17)</td>
</tr>
<tr>
<td>PPV</td>
<td>0.93</td>
<td>(.84 to .98)</td>
</tr>
<tr>
<td>NPV</td>
<td>0.91</td>
<td>(.82 to .98)</td>
</tr>
</tbody>
</table>

In comparison, MGQT exams produced the following accuracy profile, using 10,000 iterations of a Monte Carlo space of 100 multi-facet MGQT exams and an incidence rate that varied randomly around a specified mean of .5, using traditional cutscores and the same empirically based simplified manual scoring procedure. (See Table 2.)

Table 2 - MGQT Monte Carlo Accuracy Profile w/ confidence intervals

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Estimate</th>
<th>95% CI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Correct</td>
<td>0.74</td>
<td>(.62 to .83)</td>
</tr>
<tr>
<td>INC overall</td>
<td>0.26</td>
<td>(.17 to .35)</td>
</tr>
<tr>
<td>INC Truthful</td>
<td>0.38</td>
<td>(.24 to .53)</td>
</tr>
<tr>
<td>Inc Deceptive</td>
<td>0.14</td>
<td>(.05 to .25)</td>
</tr>
<tr>
<td>Sensitivity</td>
<td>0.82</td>
<td>(.70 to .91)</td>
</tr>
<tr>
<td>Specificity</td>
<td>0.26</td>
<td>(.13 to .38)</td>
</tr>
<tr>
<td>FP</td>
<td>0.37</td>
<td>(.24 to .51)</td>
</tr>
<tr>
<td>FN</td>
<td>0.05</td>
<td>(.02 to .10)</td>
</tr>
<tr>
<td>PPV</td>
<td>0.69</td>
<td>(.59 to .81)</td>
</tr>
<tr>
<td>NPV</td>
<td>0.84</td>
<td>(.64 to .94)</td>
</tr>
</tbody>
</table>

Figure 1 shows a graphical comparison of the three relevant question ZCT and the four relevant question MGQT results from the Monte Carlo experiment.

These data demonstrate that an empirically based use of the single-issue ZCT approach to diagnostic or investigative polygraphs is capable of providing sensitivity to deception that is equivalent to the multi-facet MGQT. Evaluation of the confidence intervals surrounding the specificity levels of these two approaches indicates that the single-issue ZCT will also provide levels of specificity to truthfulness that are superior, at statistically significant levels, to a multi-facet MGQT investigative approach using traditional cutscores. Careful evaluation of the confidence intervals surrounding the inconclusive rates for these two testing approaches reveals that the overall accuracy and inconclusive rates will be superior, at statistically significant levels, for single-issue testing approaches. Equally important is the volume of research supporting and describing the accuracy of single-issue ZCT techniques and the
conspicuous absence of a similar volume of data for MGQT investigative techniques. To paraphrase Kurt Vonnegut, it is the difference between “oodles and oodles” vs. “diddly-squat.” With all of this in mind, we offer the following 10 reasons for recommending a single-issue, three-question zone comparison examination technique for all diagnostic or investigative polygraph circumstances:

1. Less uncertainty about the particular issue to which the examinee is deceptive or truthful,
2. Greater overall accuracy at statistically significant levels,
3. Greater specificity to truthfulness at statistically significant levels,
4. Fewer inconclusive results at statistically significant levels,
5. Easier to explain to non-polygraph professional consumers of polygraph results,
6. Easier for the examinee to pick one type of question to assign greater levels of salience,
7. Easier to defend, with numerous studies on the accuracy of the ZCT and few on the MGQT,
8. More standardized as a result of simpler structure and fewer issues,
9. Fewer demands on the examinee’s capacity for precise verbal understanding, and
10. Smaller errors of measurement with more iterations of a single stimulus - easier to control the level of statistical significance, estimate the level of accuracy, and calculate the probability of a false-positive or false-negative error.

As we consider our present knowledge about polygraph techniques, it begins to appear very difficult to endorse any use of a multi-facet MGQT examination approach in a diagnostic or investigative setting. There are simply no advantages to doing so. However, the family of MGQT techniques will likely remain a primary tool in the arsenal of every field examiner as they are inherently suited to multi-issue screening test circumstances.

The opinions expressed in this paper represent only those of the authors, and do not necessarily represent the views of the APA or the authors’ employers.
Membership with ASTM International Committee E52 on Forensic Psychophysiology does not necessarily represent significance regarding affiliation. The significance of membership represents the ability of individual members to participate in the development and revision of standards in psychophysiological detection of deception (PDD; polygraph), as well as receive the existing standards on an annual basis. ASTM International is not an association and the possession of membership to ASTM International is the mere result of a minor monetary cost.

The primary role of ASTM International Committee E52 on Forensic Psychology is “The development of standards for research, polygraph instrumentation, quality control, examiner education and training, and ethics for Forensic Psychophysiology using the polygraph (ASTM International, 2009).” Thus, the membership’s primary role is the development and revision of standards in PDD and subsequently voting on the proposed changes or additions to standards. Therefore, committee membership is classified according to voting-interest. This includes three primary classifications, including producers, users, and general interest. There can be no more producers than there are users and general interest members, which effectively balance voting-interests.

ASTM International does not restrict membership. However, there are restrictions regarding voting when there is an imbalance among committee membership. The voting procedures also require that any individual voting negative provide rationale for their objection to a balloted item. The voting member cannot simply vote negative without providing rationale. Furthermore, their only ability to affect the progression of the balloted item is if they provide rationale which is determined by the committee to be persuasive. The voting process ensures that each member has an equal vote and that there is balance among voting interests. The process also ensures that the membership participate, as successively failing to vote on balloted items will result in the individuals voting status being removed.

There should be a clear understanding that the primary scope of committee ASTM International Committee E52 on Forensic Psychophysiology is the development of standards. There should also be a clear understanding that membership with ASTM International is not necessarily similar to other professional associations in PDD. Furthermore, regardless of membership, standards developed by ASTM International have been cited in case law regarding negligence. This information will be discussed in future articles.


Please note that Marty Oelrich, the author of this column, is the Secretary for Committee E52 on Forensic Psychophysiology. However, the views and comments expressed within this article do not necessarily reflect those of ASTM International or those of Committee E52 on Forensic Psychophysiology.
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A Twenty-One Year Review of The History, Law, and Application of EPPA

Gordon L. Vaughan, Esq.¹

Editor’s note: This is the second of a four-part series. The first part considered the historical background and legislative history leading to EPPA being signed into law in 1988. This part addresses the prohibitions of EPPA and the definitions the Act and the Courts have given to “lie detectors” and “employers.” Part three will address the exceptions and exemptions set out in EPPA. Part four will address examinee rights under the Act as well as qualifications of examiners and penalties for violation of the Act.

II. APPLICATION OF EPPA
   
   A. PROHIBITIONS ON LIE DETECTOR USE
      
      Absent an exemption under the Act, EPPA prohibits “employers” from “directly or indirectly”:
      
      • Requiring, requesting, suggesting, or causing any employee or prospective employee to take a lie detector test;
      
      • Using, accepting, or inquiring about the results of a lie detector test;
      
      • Discharging, disciplining, discriminating against, denying employment or promotion, or threatening to take adverse employment action against an employee or prospective employee based on the results of a lie detector test or for refusing to take a lie detector test; and
      
      • Discriminating against an employee or prospective employee for filing a complaint under the Act or otherwise exercising rights under the Act.

¹This article is a modified and abbreviated version of an article and materials presented by the author at the American Polygraph Association’s 44th Annual Seminar in Nashville, Tennessee, in August 2009. The author gratefully acknowledges Richard C. Anguiano, Esq., Andrew S. Vaughan, Esq., and T.V. O’Malley for their assistance in the preparation of this article. Additionally, the author acknowledges the liberal use of the interpretive materials regarding EPPA provided by the United States Department of Labor and set out in Application of the Employee Polygraph Protection Act, 29 CFR Part 801, et. seq. This article is provided for educational purposes only and is not intended as legal advice. The reader should seek legal counsel regarding any questions regarding the application of EPPA.
1. Employee Needs to Show Only that Lie Detector Examination Was a Factor, Not the Only Factor, in the Adverse Employment Action

In *Worden v. SunTrust Banks, Inc.*, 549 F.3d 334 (4th Cir. 2008) the Fourth Circuit held that for an employee to establish a violation under the EPPA provision making it unlawful for an employer to discharge any employee on the basis of the results of any lie detector test, an employee is required to show only that the results of the lie detector examination were a factor in the termination of employment and not the only factor.

2. Employer Can Overcome a Showing that Lie Detector Examination Was a Factor By Proving that the Employer Would Have Made the Same Decision Even if it Had Not Known About the Examination

The Fourth Circuit in *Worden* also held that an employer can overcome a showing that the lie detector examination was a factor in the discharge decision by proving that the employer would have made the same decision even if it had not known of the examination results. In *Worden* 549 F.3d 334, the plaintiff was suspected of complicity in a robbery of SunTrust. While SunTrust could have sought a polygraph of Worden pursuant to EPPA’s economic-loss exemption, it did not seek to polygraph Worden. Law enforcement, however, requested that Worden take a polygraph examination. The FBI administered two exams to Worden, both of which indicated that he was deceptive. SunTrust learned of these examinations through both law enforcement officials and Worden. SunTrust terminated Worden stating they could no longer trust him regarding bank funds. The Court granted summary judgment to SunTrust on the claim that Worden was improperly terminated in violation of EPPA, holding that SunTrust had adequately proved that it would have made the same decision without the knowledge of the polygraph results.

3. EPPA Does Not Prevent Law Enforcement Lie Detector Exams

EPPA does not prevent employees from co-operating with law enforcement agencies who seek to administer a lie detector examination to an employee for a matter arising out of the employee’s employment. An employer’s cooperation must remain, however, passive in nature. As such, an employer would likely not be in violation of EPPA if the employer was simply allowing law enforcement to test the employee on the employer’s premises or if the employer released the employee during working hours to take a lie detector test at police headquarters. However, the employer may not seek the examination or actively participate in the examination. Moreover, the receipt by an employer of information from a polygraph test administered by police pursuant to a criminal investigation of an employee is prohibited.

In *Mennen v. Easter Stores*, 951 F. Supp. 838 (N.D. Iowa 1997), the court held that an employer’s mere passive cooperation with the police in granting permission for an employee to take a polygraph examination did not violate EPPA. In *Grant v. Delco Oil, Inc.*, 259 B.R. 742 (M.D. Fla. 2000), a former employee who was accused of stealing money from her employer, and who consented to a polygraph examination conducted by police investigators, did not have a cause of action against her employer under EPPA where there was no evidence that the employer was involved, directly or indirectly, in the polygraph examination.

B. DEFINITION OF A “LIE DETECTOR”

The Act defines a lie detector as “a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device” used for rendering a diagnostic opinion regarding the honesty or dishonesty of an individual. 29 U.S.C. § 2001(3). Voice stress analyzers or psychological stress evaluators include any system that uses voice stress analysis, whether or not an opinion on honesty or dishonesty is specifically rendered. *See Application of the Employee Polygraph Protection Act of 1988*, 29 C.F.R. § 801.2(d)(1).2

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2Pursuant to the provision of the Act, the Secretary of Labor was commissioned to issue rules and regulations to carry out EPPA. These rules and regulations are contained in 29 C.F.R. § 801.1, et seq. Further citation to these rules will be as “Rules § at [__].”
Alie detector does not include medical tests used to determine the presence or absence of controlled substances or alcohol and bodily fluids nor written or oral tests commonly referred to as “honesty” or “paper and pencil” tests whether machine-scored or otherwise. Rules at § 801.2(d)(2). The question of what constitutes a lie detector was addressed in Veazey v. Communications and Cable of Chicago, Inc., 194 F.3d 850 (7th Cir. 1999). In Veazey, a former employee brought suit against his former employer alleging that the employer’s request for a voice exemplar to compare to an anonymous, threatening voice-mail message was in violation of EPPA. The Seventh Circuit Court of Appeals held that, while requesting a voice exemplar to compare it to an anonymous, threatening voice mail message was not in violation of EPPA, the former employee was entitled to maintain a suit in an effort to show that the employer intended to use the voice exemplar as part of a voice stress test for truth verification.

C. WHO IS AN EMPLOYER UNDER THE ACT?

The Act defines an employer as “any person acting directly or indirectly in the interest of an employer in relation to an employee or prospective employee.” 29 U.S.C. § 2001(2). The Act’s definition of an employer is, then, broad. Thus, EPPA applies to both state and private employment placement agencies who are referring or placing prospective employees with potential private employers. Rules at § 801.09(b). The Act also applies to former employees of an employer. As such, an employer cannot discriminate or threaten to discriminate against a former employee because of that employee’s refusal to be tested or otherwise exercises rights under the Act. Rules at § 801.8(c).

EPPA applies to all employees of covered employers, regardless of their citizenship status, and to foreign corporations operating in the United States. Additionally, the Act extends to any actions relating to the administration of a lie detector test which occur within the territorial jurisdiction of the United States. Thus, it would be a violation of EPPA for a foreign corporation in a United States office to prepare paperwork relating to a lie detector test which is to be administered in some foreign jurisdiction. Rules at § 801.3(b).

A number of cases have considered the issue of who is an employer under EPPA. In Rubin v. Tourneau, Inc., 797 F. Supp. 247 (S.D.N.Y. 1992), the court considered whether the polygraph examiner, retained by a company to conduct the polygraph examinations for employees regarding a theft, was an employer under EPPA. There, Tourneau, a Manhattan jewelry retailer, hired a polygraph examiner to assist in an investigation in the disappearance of several watches from its inventory. The examiner administered a number of examinations to employees. Tourneau fired two employees for refusing to take a second polygraph examination. Plaintiffs sued Tourneau and the examiner under EPPA. In a cross-claim, Tourneau also claimed against the examiner that the examiner represented that he would inform Tourneau as to which employees could lawfully be polygraphed and would otherwise conduct the examinations in compliance of EPPA. The court stated that EPPA’s definition of an employer is unclear but that courts would look to whether “as a matter of economic reality ... the alleged employer has some degree of control over the terms and conditions of employment.” Id. at 252. The court also stated that:

... it is to be expected that an entity in the business of administering polygraph examinations would have a better understanding of EPPA’s restrictions than an employer who rarely has occasion to conduct such examinations. For example, if an examiner decides which employees may be polygraphed and under what circumstances polygraph examinations are permissible, that examiner is “acting directly or indirectly in the interest of an employer in relation to an employee or prospective employee.” On the other hand, if the examiner is hired for the sole purpose of administering examinations at the direction of the employer, then, as a matter of economic reality, that examiner does not exert control over the employer’s compliance with EPPA and, therefore, is not subject to suit ...

Id. at 251. Because there were facts in dispute as to whether the examiner represented it would inform Tourneau which employees could be examined lawfully and would conduct the examinations in compliance with EPPA, the court permitted the suit to go forward.

A number of other courts considering this issue have adopted the economic reality test. In Fallin v. Mindis Metal, Inc., 865 F. Supp 834 (N.D. Ga. 1994), the court granted the examiner’s motion for summary
judgment after holding the examiner did not exert any control over the employer’s compliance with EPPA. In *James v. Prof’ls’ Detective Agency, Inc.*, 876 F. Supp. 1013 (N.D. Ill. 1995), the court denied the examiner’s motion to dismiss as there were sufficient allegations that the examiner may have, as a matter of economic reality, exerted a degree of control over the employer’s compliance with EPPA. Specifically, the court noted that the Plaintiff alleged that needlessly degrading questions were asked and that the examiner failed to provide him with a list of questions before the examination in violation of EPPA. In *Watson v. Drummond Co., Inc.*, 436 F.3d 1310 (11th Cir. 2006), the Eleventh Circuit held that it was not an EPPA violation where a polygraph exam was offered by an employer to terminated employees pursuant to the request of the employees’ union, and the union was not an employer.

In *Calbillo v. Cavender Oldsmobile, Inc.*, 288 F.3d 721 (5th Cir. 2002), a former employee of an automobile dealership who had been terminated after he was given a polygraph examination sued the dealership and the polygraph examiner alleging an EPPA violation. The 5th Circuit, following the economic reality test, granted summary judgment in favor of the examiner. In making the finding, the Court set out a number of factors which would be important in determining whether an examiner was acting, for purposes of EPPA, as an employer. Those factors included whether the examiner: (1) decided that a polygraph examination should be administered; (2) decided which employee would be examined; (3) provided expertise or advice to the employer regarding compliance with EPPA’s requirements or the employer relied on the examiner to ensure compliance; or (4) decided whether the examined employee would be subjected to disciplinary action or merely reported the results of the polygraph examination to the employer. Other Circuits have applied the *Calbillo* test. See *Fernandez v. Mora-San Miguel Elec. Co-op.*, 462 F.3d 1244 (10th Cir. 2006),

D. EFFECTS ON OTHER LAWS OR AGREEMENTS

EPPA expressly sets out that it does not preempt any provision of a state or local law or any provision of a collective bargaining agreement that prohibits lie detector tests or is more restrictive with respect to the use of lie detector tests. As to private industry, then, state laws may be even more restrictive than EPPA in the administration of lie detector tests. However, such state laws will not restrict the federal government from administering polygraph tests to its employees or to experts, consultants, or employees of contractors as otherwise otherwise provided in the Act. See Rules § 801.5(d).

**Tech Bit**

by Gregg Marshall

**Save Your Files to the Cloud**

Back in the good old days when backups were done on tapes, there was a lot of discussion of off-site backups. The idea was if your building burnt down, you’d still have a copy of the data you could use to recover your system.

Most people are lucky if they even have a backup, much less one that is off-site. But, when you think of disasters like the fires in California, floods in the Midwest, and hurricanes in the Southeast, there is a very real chance of you losing your primary computer.

And of course if your primary computer is a laptop, you could lose it (or have stolen) anywhere you take it. According to a Dell/Gartner study, over 12,000 laptops are lost or go missing in U.S. airports each week, 70% of those returned to lost and found are never reclaimed.

(continued on p. 43)
In 1896, Otto Von-Halthinterfest invented the oral thermometer. In the hands of physicians and nurses, it was an effective diagnostic tool. However, mothers often misread the mercurial menace and reverted to the ‘hand on forehead’ methodology their mothers had used. Children who wished to stay home from school soon discovered an effective countermeasure – touch the thermometer to a light bulb when mom left the room and bingo . . . 101°. The damned thing didn’t work.

In 1929, the Italian physicist, Cesare Ialooka, invented the X-Ray machine. Its use was confined to physicians who used it as a diagnostic tool. Inexperience and lack of training often led to incorrect diagnosis. Patients with lung cancer were diagnosed with pneumonia. Broken limbs were sometimes overlooked as simple sprains and tumors were sometimes mistaken as ‘clouds’ on the photographic plate. The damned thing didn’t work.

In 1940, the polygraph instrument was invented by Dr. Daubert Frye. Initially, its use was confined to polygraph examiners who used it for investigative purposes. Inexperience and lack of training often led to incorrect examiner opinion. Truthful examinees were called deceptive and deceptive examinees were called truthful. The damned thing didn’t work.

So what do the oral thermometer, the X-Ray machine and the polygraph instrument have in common? Answer, all three are recording devises. Neither the oral thermometer nor the X-Ray machine detect illness. The polygraph instrument does not detect lies. All three produce data which can be evaluated by someone with the training, education and experience necessary to form a valid and reliable opinion.

Reality is based upon perception. If the public perceives something does not ‘work’, their reality is the damn thing does not work. And so it is with polygraph. Unfortunately, the profession has done little over the years to change this public reality.

We frequently fall victim to defending a position based on an erroneous assumption. “I hear them polygraphs don’t work. My friend took one of them tests and the machine said he was lying when he was telling the truth.” The assumption in the statement is the polygraph instrument determined truth or deception. We tend to defend the accuracy of the instrument rather than the training, education and experience of the examiner.

An oral thermometer, calibrated to manufacturers specifications, ‘works’ and is capable of indicating body temperature. An X-Ray machine, calibrated to the manufacturer’s specifications, is capable of producing a film to be interpreted by qualified physician. A polygraph instrument, calibrated to the manufacturers specifications, ‘works’, and is capable of producing data to be interpreted by a qualified examiner.

The validity and reliability of any examination is based on human opinion, not the functionality of instrumentation. “Them polygraph opinions do work.”
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There are a number of websites you can register with to save your files on their servers on the Internet, most with software that makes it as easy as dragging and dropping the files just like you would in Windows Explorer. Some even offer automatic backup programs. Some alternatives you might want to look at are:

- http://streamload.com (2 GB free, used to be 25)
- http://www.mozy.com ($5 per month for unlimited storage)
- http://skydrive.live.com (25 GB free)

The advantages of these services are their low cost, often free, and ease of use. Plus you have access to your files from anywhere in the world.

However, don’t depend only on web backup for your critical data. Several of these services, failing to find a viable business model, have gone out of business, effectively deleting your data. I would still recommend a traditional backup to supplement the on-line backup. Between the two you stand a really good chance of recovering your important information.

I am a firm believer that you can’t have enough backups. Even though I am pretty good about backups, there are still times when I’ve lost data (or downloaded programs) when something goes horribly wrong.

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