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Deadlines

This issue closed on November 16, 2012.


Submission of Articles

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2013 is shaping up to be an interesting year for polygraphy. Despite our many perennial challenges, there are a few things going in our favor. First, the body of research supporting what we do continues to grow. No other technology comes close, and probably won’t for some time to come. If someone wants the best approach to deception detection, polygraph remains the only choice. Also, the Association’s movement toward requiring members to use validated techniques and best practices will help. The combination of the best technology with best practices ensures a thriving field. Lastly, many examiners are doing really good work, and their successes are regularly showing up in news reporting. These positive press reports act as constant reminders to the public of the unique and invaluable service our profession provides. I hope we continue to see this trend.

As a closing thought for the final APA Magazine of 2012, I would take a moment here to recognize our diverse membership across the world in the more than four dozen countries with APA members. This year November and December mark a special time, a period that includes observances and holy days for many faiths: November 13 begins Diwali for Hindus; November 15 is the Islamic New Year, December 9 is the first day of Hanukkah in Judaism, and December 25th is Christmas for most of Christianity. Wherever you call home, and whatever your special day, I extend my very best wishes to you, and for a wonderful 2013.
The APA regrets to inform its members of the passing of Charles I. Smith.

He was a full member of the APA. His membership was from June 25, 1995 until October 18, 2012.

For the past 10 years, he was employed with Jurney and Associates.

He was a long time member of the Florida Polygraph Association, American Association of Police Polygraphist and the American Polygraph Association.

He graduated from the National Polygraph Institute during June, 1980.
Below is a link to an online film clip of Dr. William Marston conducting a “lie detector” test using a technique he invented and used between WWI and the 1930s.

http://mirc.sc.edu/fedora/repository/usc%3A1497

NOTE: If link does not work with your browser, cut and paste the above url directly into your browser.

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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

Quotables

The only place where success comes before work is in the dictionary.”

-Vidal Sassoon

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WANTED: Computerized polygraph instrument, preferably a Limestone Datapac_USB Silver Solution model, or possibly a Lafayette LX4000 model. If you have either of these models for sale, please call Ingrid Dean at Great Lakes Polygraph (231) 313-9186.
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Polygraph Examiner Training Schedule

Academy for Scientific Investigative Training

Advanced Polygraph
November 29-30 - 16, 2012

Academy of Polygraph Science

Basic Examiner Course
January 7-March 1, 2013 (Fort Myers)
July 8 - August 30, 2013 (Fort Myers)
September 16-November 8, 2013 (Fort Myers)

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

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

American International Institute of Polygraph

Basic Examiner Course
January 7 - March 1, 2013 (Georgia)
January 7 - March 15, 2013 (Georgia)

Advanced Seminar (16 hours)
November 23 - 24, 2012 (Gauteng, South Africa)

Advanced PCSOT
December 14 - 15, 2012

Arizona School of Polygraph Science

Basic Examiner Course
January 28 - March 22, 2013
May 6 - June 28, 2013

Backster School of Lie Detection

Basic Examiner Course
January 28 - March 22, 2013

PCSOT
March 25 - 29, 2013

Advanced PCSOT
April 1 - 3, 2013

Annual Polygraph Examiner Work Conference
December 3 - 7, 2012

Marston Polygraph Academy

Basic Examiner Course
January 14 – March 13, 2013
April 15 – June 12, 2013

PCSOT
December 10 - 14, 2012
March 18 – 22, 2013

Maryland Institute of Criminal Justice

Basic Examiner Course
January 7 – March 1, 2013
April 8 – May 31, 2013
September 16 – November 8, 2013

PCSOT
March 4 – 8, 2013

New England Polygraph Institute

Basic Examiner Course
February 18 - April 26, 2013

PCSOT
April 29 - May 3, 2013

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.
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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

TO REGISTER FOR THE SEMINAR, PLEASE COMPLETE AND MAIL THIS FORM TO: 
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CES-Albuquerque, New Mexico (1/30, 31 & 2/1/13) (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) 2013
Upcoming Seminars

The 2013 Seminar and business meeting of the National Polygraph Association will be held January 21-23 at the Golden Nugget Hotel and Casino in Las Vegas, Nevada. Speakers include Michael Woodrow, Chip Morgan and Ben Blalock. Rooms for the Seminar are $49.00 per night (Sunday -Thursday excluding any applicable tax and energy surcharge). For hotel reservations, call 1-800-634-3454 and mention National Polygraph Association 2013 Group Code GSNPOLY. Reservations must be made by December 21 to receive seminar rate. Members are invited to attend the Board Meeting on Sunday, January 20, 2013. For more information contact Gary Davis, 785-828-3248 or email the NPA at nationalpolygraph@yahoo.com.

The American Polygraph Association and New Mexico Society of Forensic Polygraphers will co-sponsor a continuing education seminar on January 30 - February 1, 2013 at the Hyatt Regency Albuquerque in Albuquerque, New Mexico. Registration information is located on page 12 of this issue.

The Northwest Polygraph Examiners Association will hold their 2012-13 Winter Seminar on January 26th and 27th, 2013 in Hood River, Oregon. A total of twelve (12) hours of APA approved continuing education hours on Advanced and Specialized Polygraph Techniques will be offered. A Certificate will be offered. Speakers will be Aaron Holladay of the National Security Agency and Bill Walsh of the Howard County Sheriff’s Department. Mr. Holladay will provide eight hours of instruction on “The Directed Lie Test”. Bill Walsh will present a case study in which a conviction was secured in a bodiless homicide case. The fee for the seminar is $150 for non-NPEA members and $100 for members. More detailed information about the seminar, including electronic registration, after class activities, and much more can be found on our web site at: www.nwpea.net.

The Northwest Polygraph Examiners Association will hold their 2013 Summer Seminar on June 24th – 28th, 2013 in Newport, Oregon. A total of thirty two (32) hours of APA approved continuing education hours on Advanced and Specialized Polygraph Techniques will be offered. A Certificate will be offered. The Lafayette Instrument Company has agreed to present their three day in-house training course. This training will be given by one of their trained polygraph personnel. The other twelve hours of instruction will be announced. The fee for the seminar is $350 for non-NPEA members and $300 for members. More detailed information about the seminar, including electronic registration, after class activities, and much more can be found on our web site at: www.nwpea.net.
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Greetings fellow examiners. I want to wish you a happy, healthy and prosperous holiday season. All is quiet on the polygraph front as like many of you, I’m still recovering from a busy fall and hoping for a quiet winter to catch up with my work. Since we are all busy my update is brief.

As I indicated in the previous *APA Magazine*, I was tasked by President Cushman as the General Chair of the Ethics and Grievance Committee and I have now officially established my committee. Texas DPS Lieutenant Matt Hicks has agreed to serve as the Chairman of the committee. Matt is a rising star in the polygraph profession and has recently been asked to share his polygraph expertise within the US and abroad on a variety of topics. He was also recently named as the Director of the Texas DPS Polygraph School. The members of the committee are Marcia Feucht, Steve Adang, William Gillespie and Michael Martin.

Over the last month I have had the pleasure to give presentations to the Tri-State Polygraph Association in Branson, MO and to the South Dakota Polygraph Association in Deadwood, SD on various topics including the Empirical Scoring System. I would like to first and foremost take a minute to say thanks to the members of these associations for their dedication and for the incredible kindness and hospitality they extended to me during my visits to their conferences. I always think that the people of the great state of Texas are the friendliest until I visit other states like South Dakota and Missouri. In both cases I was impressed with the cooperation and strength of these associations, as well as their professionalism. Both of these associations had sizeable participation at their conferences which indicates to me that polygraph is continuing to thrive for the private examiner and it is being supported in the law enforcement community.

Secondly, it seems as there are two movements taking the polygraph profession by storm over the past two years. These are the Directed Lie Screening Technique and the use of the directed lie as well as the Empirical Scoring System (ESS). If you have not been exposed to these courses you owe it to yourself to give them a try. The implementation of these techniques in my agency has greatly increased the inter-rater reliability of our exams and made a serious dent in our
inconclusive rate. If you want more info on either of these techniques, I will be happy to email you the information or visit with you in person to help get you moving along.

As always, I thank each of you for your dedication to the professionalism of polygraph and remember to call or email me if you need anything.

George Baranowski
Vice President, Private

A FEW CHUCKLES ABOUT COURT TESTIMONY

Over 30 years ago (in what now seems as a previous life) I had just retired as a detective from the local police department and took a position as Chief Investigator for the Prosecuting Attorney’s Office, a position that I held for 12 years. In that role I assisted in the prosecution of over a hundred jury trials and in the process received a remarkable educational experience about human behavior in that legal atmosphere. But also in that capacity, I had the honor of being guest lecturer at the Indiana Police Academy and the Law Schools of both Notre Dame and Valparaiso Universities. On those occasions I spoke on things like Jury Selection and Forensic Hypnosis Evidence. In addition, one of the topics that I presented was on “Court Testimony.” I wrote up a tongue in cheek approach to describe the type of behaviors and personality types of individuals testifying that for the most part appeared to offend jurors.

In as much as we as polygraph examiners do get an opportunity to appear in court from time to time, (depending on the state in which you reside) I thought it would be fun just to share with you what I came up with. In my state of Indiana regarding criminal cases, polygraph examinations are admissible in court if both parties (Defense and Prosecution) stipulate to allow the results before the conduct of the test. However, in PCSOT testing, much of these tests fall under Probation or Parole rules and regulations. Case law in Indiana regards such testing as being a “Civil Case” rather than a “Criminal Case” and Polygraph tests are admissible in Civil Cases in Indiana. I have only testified about half a dozen times in the past three years, but I think the knowledge that polygraph is admissible in PCSOT does serve as a beneficial deterrent.

In any case, here’s the tongue in cheek hand-out I put together about witnesses at trial that I presented back then.

1) The Never Ending Story Witness: This witness cannot give you a simple answer to a simple question. They don’t know when they have said enough, and by that time they have usually said far too much. Besides boring the jury, the additional unnecessary information often gives great ammunition to the cross-
From the Board

examining attorney. Often, their answer doesn’t even seem to address the question asked.

2) The Mr. Stingy Information Witness: This guy is just the opposite of the witness outlined above. He doesn’t tell you anything. He’s curt in his answers, and even presents an appearance that this information will have to be dragged out of him. It causes such an expert witness to look uncooperative and insincere. Such an appearance actually undermines the value of his or her testimony. This may be valuable information, but it is not likely that the jury will take it seriously.

3) The Mr. Authority Over-inflate Witness: This witness has an opinion about everything and he can tell you something about anything whether he really knows what he is talking about or not. This witness tends to inflate his testimony with a profusion of adjectives and metaphors that reek of exaggeration. For example, if this person caught a fish that was 4 inches in length, by the time he ended up telling of his catch, the fish would have grown by three feet, which was allegedly later determined by alleged scientists to be the missing link between man and shark, almost sank the boat during its “capture” and Field and Stream have contacted him for the story. (He may add that he has already turned down an appearance on the Jay Leno show).

4) The WWW Champion in Your Face Witness: This guy arrives in court ready to do battle. He has that look in his eye. He’s on the defensive because he is taking this whole thing as a personal challenge between him and the opposing attorney. He snaps his answers back to the cross-examiner with an angry look on his face and answers questions often with a question to the attorney, often giving the impression of inviting the attorney to step outside and we’ll settle this man to man. Such hostility easily turns not only the jury off, but just about everyone else as well. Remember that professional expert witnesses try their best not to give the impression that they are taking sides, that they are there to tell the truth, the whole truth…. (and you know the rest of it). This is not a title match for the championship. If it is, you lose this one.

5) The Mortimer Snerd – Mr. Dull Witness: I know I date myself drastically when I refer to Charlie McCarthy and another of ventriloquist Edgar Bergen’s characters Mortimer Snerd, but for those few who do remember, this might be a good model for this kind of witness. This witness is just plain dull and at the same time such a witness can be damaging. They may have very important information to present but their delivery is so dull and boring to the jury that perhaps significant information can be lost in the process. This guy just puts the jury to sleep. He often insists about talking about meticulous
technicalities that, in the general scheme of things, are really not significant to the broad issues involved in the case before the jury. It’s the old story that he cannot seem to find the forest because the trees are in the way.

6) The Douglas Fairbanks Jr. or Errol Flynn – Ham Actor Witness: Yeah I know, I’m talking about the old days again when I refer to these old movie guys, really this is a good description of this kind of witness. If you had ever seen one of Mr. Fairbanks swashbuckling hero of black and white adventure films, every movement seemed to be grossly exaggerated. He couldn’t reach for a glass of water unless it was a dramatic gesture. And so we have the ham actor witness. This guy just seems to burst onto the witness stand as if he is ready to enact some kind of movie role. He’s prepared to give a performance. His facial gestures are exaggerated. His testimony seems to be “paused for effect.” His entire delivery seems to be overstated. This kind of witness undoubtedly gets a negative review from the jury.

7) The Friday the 13th Victim – Miss Stage Fright Witness: This witness appears scared to death to be testifying today. Don’t get me wrong, everybody is a little nervous when on the stand, but it’s the over-reaction of fear that causes problems. The witness just seems to freeze on the stand. Their testimony may sound irrational and the responses too short and incomplete. Again this may be important testimony, but by the way it is being delivered, the impression given off is one of no confidence. It may make jurors wonder if you’re hiding something by the manner in which you conducted the polygraph examination to the person in question, or the way you scored the test, or whatever you’re holding back.

8) The Shifty Eyed Witness: This witness reminds me of the scared image that was often portrayed in Don Knotts movies. This witness gives little or no eye contact with the jury, the attorneys, the judge, nobody. The body language message is that this is a witness who is hiding something. It conveys a sense of guilt or deception. The true motivation for this witness could just be shyness but signals being given off are negative ones. This may just require this witness to practice testifying before actually being called. Perhaps even videotape it so the witness can actually see for themselves what they look like, and observe the impression being given.

9) The VIP Mr. Too Important Witness: This style of witness just behaves as if they are just TOO GOOD, TOO BUSY, TOO WISE, TOO IMPORTANT, etc. to give up their “valuable time” to the court. In my former life with the Prosecuting Attorney’s Office, I saw many professional people such as Doctors or Psychologists in particular, and Company
CEOs that fell into this mold. (I think we probably know a polygraph examiner or two who might meet this description also). This is a witness that just flat out gives many strong condescending messages throughout their testimony and so no one likes them. There was a credo in our office back then that is applied to witnesses that stated witnesses should strive to BE LIKED and BELIEVED. And if they LIKE YOU they are more likely to BELIEVE YOU.

10) The William Buckley – Long Time Thinker Witness: Such a witness takes what seems to be ages to give a direct answer to the simplest questions. He seems to ponder questions in great length, analyzing and re-analyzing his answer… then after some time, may reply with something like a simple…..”Yes.” (and the question could have been as simple as is today Tuesday?) The message such a witness gives off is that they are unsure, and at the extreme, that they give the impression that they are actually hiding something, which in fact, they may be.

11) The Mr. Disorganized Thinker Witness: This witness just seems to talk in circles. Nobody can figure out what he’s talking about. He seems to sidetrack both the jury as well as himself. I had a partner like this when I was a homicide investigator. To him, every case we ever came upon appeared to be “An International terrorist hit” and he was serious, or something else as far out as that. The disorganized thinker witness may even have good information but the core of the testimony can be lost when other off-the-wall statements accompany it while on the witness stand.

12) The Jackie Mason Qualifier Witness: Jackie Mason is my favorite comedian. Mr. Mason often gives the position of a “qualifier” in his routine. For example if someone asks him about something like a play he had seen he’ll say something like this: “It was okay, it wasn’t great, but it was good, it wasn’t really good, just a little bit good, it could have been better, but it wasn’t terrible, well maybe a little bit terrible, but it wasn’t a big flop, maybe just a little flop, just last week I saw a really big flop, boy that was a flop, you should have seen it….” and so on. The qualifier witness may be funny to hear but their testimony lacks confidence. Too many qualifiers weaken the testimony.

13) The Miss Congeniality – Everybody’s Friend Witness: Here is the witness who has played hostess much too long. She wants to please everybody, including the cross-examining attorney who is challenging her. She “colors” her testimony so as to not offend anyone. Heaven forbid she should ever say something negative about anyone even when it is obvious. She agrees with everything presented to her. She will even change her testimony if it will make the cross-examining attorney happy or
From the Board

less irritated as he looks. It seems almost impossible for the “everyone’s friend” witness to speak conclusively about the real issues. The impression is obvious.

14) The I’m a Politician - Vacillator Witness: It seems we have seen some of this kind of behavior in the recent election campaign interviews. Such a witness seems to change from one moment to the next. Such a witness alters his or her version of testimony each time they speak. Maybe just certain elements of the testimony, certain facts are reported differently during cross-examination than during their direct testimony. Jurors will quickly discount such a witness. I have seen such testimony that also had sort of a domino effect on other witnesses by weakening their testimony as well. The jury ends up not knowing who to believe anymore.

Of course there was a lot fun in all of this, but I also know that you are aware that this is serious business. When we as polygraph examiners are called upon to testify as expert witnesses at a trial this will NOT BE to settle someone’s parking ticket problem. It will be a major issue. Presenting yourself as a professional expert witness involves many aspects. You need to dress like a professional, speak like a professional and present yourself in your delivery as a professional polygraph examiner, and a proud member of the American Polygraph Association.

The United States Government’s polygraph community is a unique assembly of programs and government agencies. Over 25 separate agencies participate in the federal polygraph community. Each polygraph program supports an agency with a distinctive mission. Polygraph is used successfully by all the agencies despite the differences. Cooperation, communication and unity are key factors in the success of the federal government’s polygraph programs. The management of the various federal agencies established their polygraph programs to support the mission(s) of their organization. Some federal polygraph programs support broad law enforcement responsibilities, while others focus on very specific types of criminal activity. Some federal security/intelligence services utilize polygraph testing in support of operational endeavors. A few federal agencies have responsibilities in both domestic law enforcement as well as in the Federal Intelligence Community. In addition to using polygraph testing for investigative and operational support, agencies from both the law enforcement and the security/intelligence branches of government use polygraph testing for internal personnel security actions. A number of federal agencies use polygraph testing as one method in screening applicants for employment in sensitive positions. Other organizations utilize
polygraph as an assessment method in both the initial and ongoing phases of their personnel security process. A few federal agencies employ large numbers of polygraph examiners, many of whom may be relatively inexperienced, and require rigorous supervision and ongoing training. Other organizations may employ a few exceptionally experienced examiners. The continuing education requirements for such experienced examiners are entirely dissimilar to those of less veteran examiners. A number of federal agencies have established sophisticated examination facilities. Those facilities not only provide superior physical settings for examinations, but utilize high-level electronic and information technology systems for oversight and management of the examination process. The missions of some agencies take examiners to locations where examination situations are very different from those at the specially constructed headquarters facilities cited above. Challenging field environments may require examiners’ use imagination and logistical skills to establish an appropriate setting, before an exam can begin. Because of the various agency missions, investigative objectives, and examination environments, the various agencies of the federal polygraph community utilize an assortment of different polygraph procedures to accomplish their assignments. Despite these significant disparities, the managers of federal polygraph programs join together in a collective effort to maintain and advance polygraph performance. The agencies utilize the same basic examiner education program conducted by the National Center for Credibility Assessment (NCCA). The various agencies also utilize continuing education courses provided by NCCA and share their own internal training classes with other federal agencies that have similar missions and/or methods. The programs have a common bond of respect, notwithstanding the variety of methods and testing procedures utilized by different agencies. NCCA performs an essential function in maintaining and strengthening the unity of government’s polygraph community. The Director of NCCA, and the chiefs of NCCA’s educational and quality assurance programs perform critical roles in sustaining the cohesion and standards of the U.S. Government’s polygraph community.

The mutual respect and support displayed by the U.S. federal polygraph community, is a useful model for the American Polygraph Association in our efforts to bring together diverse examiners from around the world in order to enhance and maintain high standards for our profession.
From the Board

Mike Gougler
Director

This article will be brief as not much has happened since the San Diego seminar. We have just begun booking speakers for the 2013 seminar in Orlando, September 8th through the 13th. President Cushman has requested that the seminar focus on practical polygraph issues. Hence, the theme for the seminar will be “Applied Polygraphy”. I hope to have a majority of the speakers under agreement by the next magazine. The Hilton Bonnet Creek is an excellent hotel and, with a $97.00 room rate, the rooms will go fast. PLEASE BOOK EARLY! The last two seminars have been the best attended. We expect the trend to continue.

I would like to acknowledge the following individuals for their stellar performance at the San Diego seminar. Many thanks to Steve Duncan, Walt Goodson, Don Clendennen, and Sabino Martinez for their contributions in helping make the seminar a success. Special thanks to Lafayette Instruments and Rodolofo Prado for their assistance in providing interpretation assistance.

We have made some changes in the Awards Program. Past President Skip Webb will be the lead on award presentations at the banquet.

Jamie McCloughan
Director

As both the leaves and temperatures have fallen, I believe winter weather will be soon upon us in the Midwest. Although the sap runs slow during these months, I can assure you that your Board will be fast flowing with work toward positive change.

I know that some people cringe when the word “change” is mentioned. Those of us who enjoy whatever consistency we have, especially today, find comfort in our routines. However, I enjoy positive change. What I mean by positive change is, quite simply, change that is proven necessary to make something better. When considering change, I ask myself three questions:

First, is the change necessary? Necessary change means the change is needed in order to improve something.

Second, is the change reasonable? Reasonable change means there is a feasible ability to implement the proposed change.

Third, is the change defensible? Defensible means that the proposed change is supported with substantive evidence.

With these questions in mind, the Educational Accreditation Committee
(EAC) is working to finalize the school inspection manual, which hasn’t been updated since 2004. In my last update, I mentioned the work that has been done thus far on the manual update. I am pleased to announce that everyone who previously worked on this endeavor has agreed to volunteer for the committee to finish their work. I also mentioned working toward bringing our school accreditation and inspection processes in line with other professions. As some of you might not be aware of what’s required to update the school inspection manual, I will try to break down that process for you.

The first step in updating the manual is for the EAC to review the current manual and suggest changes, if any, to the current language. Once the committee completes their edits, the second step is to send the edited version to every APA accredited school director so that they have an opportunity to provide the committee with their comments and suggestions. After the school directors have submitted their comments and suggestions, the third step involves the committee deciding on what, if any, suggested changes and edits they will implement in the final proposed manual update. Finally, the manual is submitted to the Board of Directors for a vote to implement the new manual.

This process can be quite tedious when attempting to update a manual to current day requirements, especially when changes haven’t been made for several years. So, that brings me to the following question for you. Does it make more sense to make occasional changes to the manual in mass or should we implement smaller, more frequent changes to the manual as they become necessary, reasonable, and defensible? Please feel free to contact me with your thoughts.

As always, may all of my law enforcement brethren and military personnel working to ensure the safety and freedom of this great nation from threats, both foreign and domestic, be safe and have Godspeed in their return to those they love.

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Quotables

“You are what you do, not what you say you’ll do.”

— C.G. Jung
Interrogation Considerations for Sex Offender Polygraph Testing

by Dave Bryant

As polygraph examiners we tend to focus on our charts and try to improve our accuracy by collecting quality data to evaluate in order to detect deception or confirm truthfulness. We can easily forget that our goal is not simply to catch liars, but to obtain information that we have verified as truthful and complete. First and foremost we are interrogators. A polygraph is a great tool for an investigator to have, but it is ultimately our skills as interrogators that bring out its real value.

The style of the interrogator greatly influences the probability of success. This is especially true when interviewing sex offenders. Sexual matters are particularly difficult for most people to discuss, and overcoming the additional issue of personal embarrassment is essential when getting an offender to confess. The subject of a mandated post conviction sex offender polygraph exam comes in with a great deal of resistance to fully disclosing his transgressions. In addition to potential legal consequences, he is dealing with peer issues in his therapy group, progress in his treatment plan, and potential repercussions from family members who may never have been told the full extent of the offender’s behavior. It is critical that the examiner work to overcome these barriers to communication and not add to them with any display of disdain for this subject’s behavior, regardless of

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how repugnant and deviant it may be. Clearly, interrogating sex offenders is not a job for everyone.

An offender under the stress of a legally required PCSOT test may default to a position of not communicating any more than he believes is absolutely necessary to get the session to end.

Depending on the consequences, or lack thereof, for failing the exam, the offender may not even care about the results of the exam. He just wants to get it over with. When conducting an exam that will include questions about violations of probation, the subject’s failure to disclose minor transgressions of probation rules will guarantee a failed test. It is critical that a proper pre-test interview encourages the offender to disclose all probation issues. By doing anything that limits communication, we are essentially sabotaging our test. It is not hard to get into this area by acknowledging that there are insignificant issues, such as being a few minutes late for curfew or estimating a distance on a driving log, that need to be discussed to prevent the offender from failing the test, thereby being suspected of more serious violations. This theme can also be picked up in the post test interrogation if necessary. Once the subject admits to even a simple violation, it becomes easier to get him to add to the list by pushing for the more significant behaviors.

I have found that a casual, friendly approach works best. Non-judgmental terms, unassuming questions, and slang terms rather than medical or legal vocabulary, work best. The approach
taught in Cognitive interviewing is preferred over a confrontational style.

Establishing rapport is essential for getting offenders to talk. They tend to be easy to intimidate, which is why I like to change their pre-conceived idea about the polygraph session as soon as they see me. They are expecting to be accused, threatened, and judged by a detective who personally hates them for what they have done and wants to punish them any way possible, which at the minimum will mean jail. They are psychologically prepared for dealing with a hostile interrogator. By the time you meet them they may have been subjected to previous harsh encounters with law enforcement personnel or merely overheard others giving opinions about them and their crimes. Their resistance is strong. Overcoming it is difficult if not impossible. The first impression can help change that expectation and set the stage for a successful interview.

A starched shirt, power tie, and well-polished shoes may look professional, but a hideous Hawaiian shirt with cargo shorts and sandals does not fit the offender’s expectation. The casual look does not change anything except the perception of the subject. It is simply easier to deal with someone who is less imposing when talking about personal details. Remember, your goal is to get past barriers to communication and build some bridges which you will get this subject to cross. The more casual look makes you less intimidating. It will be easier for him to feel a connection with you and take him farther from the guarded position he had.

The casual look does not mean sloppy however. One should still be clean, and professional. Lack of personal grooming can be an obstacle to communication in itself.

Effective interrogation means overcoming the subject’s resistance to talking freely and obtaining useful information to, in this case, aid the probation officer and therapist in doing their jobs. Anything you can do to create an environment favorable to that objective is worthy of your consideration.
Diogenes’ Dilemma

by Tuvya T. Amsel

Being aware of the human ability to deceive along with the human inability to detect it, ancient courts and legal systems relied heavily upon trials by ordeal. The ordeals subjected the accused to all different physical tests and endurances. Surviving the ordeals was taken as a divine acquittal. The earliest legal source is found in the Hammurabi codex from the 18th century B.C.\(^1\) and the Assyrian codex from the 12th century B.C.\(^2\) which commands those who are suspected of witchcraft or adultery should “fall” into the river. If she survives she will be acquitted and her accuser’s estate will be confiscated. The book of Numbers (5:11-31) describes the “bitter water ordeal” wherein a woman suspected of adultery should drink a glass of holy bitter water and swear in God’s name that she had not betrayed her husband. If she is deceptive her thighs and belly will become swollen.


Robinson\textsuperscript{iii} shed more light on the ancient methods: One might solemnly swear that he was telling the truth, and get as many other people of his own class as the court required to swear that they believed that he was telling the truth. This was called compurgation. It was believed that God would punish those who swore falsely. On the other hand, the parties to the case, or persons representing them, might meet in combat, on the supposition that Heaven would grant victory to the right. This was the so-called wager of battle.

LaMonte\textsuperscript{iv} describes some of the medieval ordeals: The ordeal by fire would consist of a man walking through open flames or carrying a red-hot iron a stated number of paces, and; plunging the hand or arm into a pail of boiling water. In all of these ordeals the judgment of his fellows played an important role as they could determine the weight of the iron, the size of the fire, and the number of minutes which the arm must be held in the water. After the ordeal had been performed the arm was bandaged up and the bandages removed several days later. If the wounds had begun to heal he was declared innocent - if not, he was guilty. The worst of the ordeals was that of cold water, in which a man was bound and thrown into a pond or stream. In this case if he floated he was guilty (and torched later) and if he sank he was judged innocent, as water will cast out impure substances. Priests were not subject to these ordeals, but were required instead to swallow a piece of cheese, the size of which was determined by the court.

“Hot Water” ordeals are found in the Gaelic Salic Law (510 A.C), in the Saxons Ine Law or Ceace (690 A.C), with the Spain Visighotes (705 A.C), with King Lombard’s Laws (723 A.C), with the Parisians in the 8th century, and with the Irish “Caire Fir Fogerrta Fir” Law from the 7th century. The “Trial by red hot iron” or as known in Latin “Judiciun, Ferri, Juise”, is found in the Toring Law (802 A.C) and in Pope Louis the Pious’ letter. This trial was very popular in France, England and Scandinavia in the 8th and 9th century. The Church Canon abolished the trial in 1215. Tortures, as a mean to get the truth became “scientific” by the Inquisitors and especially by Chief Inquisitor Tomas de Torquemada.\textsuperscript{v}

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\textsuperscript{iv} LaMonte J.L., (1949). \textit{The World of Middle Ages}. Appelton, New York.

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One of the most comprehensive studies on ancient methods can be found in Lea’s. Many tests described by Lea relied, not upon divine guidance, but upon the magical ability of some earthly substance to respond correctly to truth or falsehood. Thus the Roman Vestal Tucca proved her virtue by carrying water in a sieve. Early English jurists believed firmly in the power of murdered corpses to bleed when the murderer was brought into the room. In similar fashion, Greek maidens whose claims of chastity were in question swore to the truth of their statement in an oath written on a wooden tablet. The wood was fastened around the girl’s neck and she walked into a fountain, which had special sensitivity to female virtue. If she was a good girl the water stayed on a level with her knees - if she was a gay deceiver it rose to her neck and floated the wooden tablet.

According to ancient Greek scholars, the Celts used to test fatherhood by throwing the newborn baby into the Herman River. If the baby survived it meant that he was “legitimate”; if he drowned it meant that he was “illegitimate”. In the 8th century France, the parties in dispute used to stand one in front of the other lifting their arms in a cross-position. The party who lowered his hands first was declared guilty. In Burma the parties in dispute used to hold a burning candle. The party’s candle that extinguished first was declared guilty. In Europe Middle Ages the suspect was put to stand in front of an angry bull. If the bull stopped in front of the suspect he would be acquitted. The same logic applies to the Middle Ages European test in which the parties used to write down their claims on a piece of paper and then throw them into the fire. The paper that survived the fire was acquitted. In the Japanese “Goo” of the 6th century, the suspect had to swallow a papyrus with

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some holy sentences. If he is deceptive the papyrus will bother his stomach to the point where he would have to throw out his confession. In Central Africa they still use a trial in were they put a ceramic boiling pot on the subject’s stomach. If he is deceptive his skin will burn.

Of all the many truth tests of ancient times only a few definitely foreshadowed modern physiological methods. The earliest recorded instance is from Indus dated about 900 B.C. in which persons falsely denying being poisoners were considered to reveal their guilt by such physiological changes as blushing (facial vasodilatation). Some 600 years later Eristratus, physician to Alexander the Great used the “tumultuous rhythm” of the heart to determine that the crown prince of the Seleucid Court in Syria was deceptive about his impious – and hence guilty – love for his newly acquired stepmother. The ground truth was dramatically confirmed by the later birth of a daughter to the accused pair.vii

In the rice-chewing test in ancient India a man suspected of crime or deception was made to chew rice. If he could spit it out again he was considered innocent. If he couldn’t, his story was judged false. This test has a sound physiological principle behind it. The emotion of fear tends to stop the salivary glands from secreting saliva. A person who was afraid, therefore, would have a dry mouth and could not spit out his rice.viii The same logic is still demonstrated nowadays in the hot iron-licking test, used by the Bedouin (nomad) tribe in the Middle East in which the suspect has to lick a hot copper spoon. If he suffers no blister, he is considered to be truthful, otherwise deceptive.

In the sacred name of “search for the truth” ancient courts and legal systems tortured and abused witnesses and suspects. In a 21st century perspective it seems that their quest for the truth elevated depravation and degeneration to a state of art, but who are we to judge and how nowadays modern methods will be judged in the future.

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Origins of the Wheel

Michael B. Lynch

Rex Brontosaurs and Sam Stonewall were sitting around the campfire musing the day’s events. Rex had been secretive for some days. He finally spoke to Sam.

Rex  “I have invented something.”
Sam  “What is it?”
Rex  “I don’t know.”
Sam  “What does it do?”
Rex  “It makes things move.”
Sam  “How?”
Rex  “It goes ‘round.”
Sam  “But it has four sides.”
Rex  “I know, it is a problem.”
Sam  “What if you cut off four corners.”
Rex  “No, my invention, my way.”
Sam  “OK, so let’s push your invention.”

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They pushed it. The square wheel performed as promised. Well, almost. It moved, but toppled over and crushed Rex Brontosaurs to death. Sam Stonewall was sad; he had lost a friend.

There was great discontent among the tribal elders. Rex had died intestate and the line of bragging rights was not clear. Who had actually invented the wheel and in the end, of what use was it. The elders decreed the ‘Rex Wheel’ invention was the only way to make things move and was therefore the property of only those who understood it. It was to remain a tribal secret.

But Sam moved ahead without tribal consent. He removed the four corners of the wheel. It moved better but accomplished nothing. It did not make things move. What now? If one wheel is good, two wheels must be better. Perhaps connecting two wheels by a central axle would solve the ‘moving’ problem.

The ‘wheeled’ cart was invented by Rex Brontosaurs and Sam Stonewall was given credit for the concept of moving things with a ‘wheel’. Over the centuries, the ‘wheel’ was adapted to many devices – ultimately, the automobile among others.

The issue is who ‘invented’ the research that supports the efficacy of polygraph formats. Leonard Keeler introduced the R/I format in the 1940’s. John Reid introduced the mixed issue format in the 1950’s. Cleve Backster introduced the single issue format in the 1960’s. Research since the 1990’s has validated some formats, both mixed/multiple issue and single issue.

Over the past many years, some polygraph examiners in a few countries have claimed they ‘invented’ polygraph and insisted their test ‘format’ is superior to all others. Some even sell their own ‘polygraph instruments’. In some cases, parts of these instruments and the attendant software are pirated from other manufacturers. Whether by pride or greed, they are missing the point. It’s the research that is the foundation of polygraph, not ego or instrument.

The American Polygraph Association has an excellent outreach program reaching a rapidly growing international market for the truth. APA membership in foreign countries has grown significantly in the past decades. Our most important export is professionalism based on research.
Tacoma Rape Investigation

by Steve Shake and Cassie Hayes

On the afternoon of February 14th, 2004, 10-year-old Becky* went shopping with her father at a supermarket in the central part of Tacoma, Washington. Some of her activity inside the store was captured on the store’s video surveillance system. Becky was also being watched by a stranger.

*Not her real name.

Opinions expressed in this article are solely those of the authors, and do not necessarily represent the views of the American Polygraph Association.
Becky suffers from a developmental disability and on occasion she can be easily influenced, but she is also articulate in many ways. Soon after arriving at the supermarket, Becky’s father asked her to get a shopping cart. She complied and the video surveillance system recorded her getting a cart. At the same time, an unidentified male was recorded as he approached and contacted Becky. Becky later said that this man offered her $10 if she would help him look for his girlfriend, to which she agreed.

When Becky failed to return with a shopping cart, her father became concerned and he went looking for her. When he could not locate her, he called the police. Becky’s father met with the police in the parking lot in front of the supermarket. While he was speaking to the police, Becky emerged from the outside rear portion of the store. She explained that in the process of helping the stranger look for his girlfriend, they went to the back side of the supermarket. At that point the stranger knocked Becky to the ground, injuring her. He then proceeded to perform oral sex on her.

A search for the suspect was unsuccessful. Becky was taken to a hospital where she was treated for her injuries, but
hospital staff failed to run her through a standard procedure that would have collected potential physical evidence for a sexual assault prosecution. Two days later, Tacoma Police Detective Cassie Hayes was assigned to do the follow-up investigation.

Det. Hayes reviewed the initial investigation and obtained the store’s video recording. She successfully isolated footage of Becky and the suspect. Although the video recording helped to identify some characteristics of the suspect, it had the typical grainy appearance that is common with such recordings and it lacked good detail. Det. Hayes arranged for Becky to meet with me hoping to be able to develop a composite sketch of the suspect. I interviewed Becky and her recall was good enough for me to be able to put together a sketch. Ultimately the sketch was included in a public information bulletin that Det. Hayes produced. She distributed the bulletin throughout the neighborhoods surrounding the supermarket hoping someone would come forward with information that might help identify the suspect.

Det. Hayes eventually received a tip from a neighborhood resident who had seen the bulletin. The tip led to Brian Simpson** who lived near the supermarket, had reportedly been acting “suspicious” since the incident, and had a close resemblance to the composite sketch. When Det.

**Not his real name.
Hayes, and other assisting detectives, contacted Simpson at his home, he did not appear surprised that they were there and he didn’t ask any questions about their presence. Probable cause could not be developed to arrest Simpson, but he agreed to an appointment with me for a polygraph exam.

Simpson didn’t help remove any suspicion from himself when he appeared for his exam. He showed up extremely early for his appointment, giving the impression that he was very anxious for the exam and while he waited in the lobby, he read a Bible in a very obvious display. However following that, I never observed Simpson display any verbal or non-verbal cues that were indicative of possible deception.

When designing questions for polygraph exams involving sexual assault allegations, I have always been extra cautious due to the loopholes, rationalizations, and misinterpretations that are inherent with such cases. In this type of sexual assault, the primary difference in the level of the statutory violation is whether or not penetration (however slight) of the victim occurred. In this case I was concerned that although Becky described the occurrence of penetration, I didn’t want a polygraph exam to be subject to a suspect’s personal interpretation of penetration. I felt it would be safer to work with the term “sexual contact” (the touching of an intimate part of another person’s body), even though it is treated lighter than an act of penetration. I reasoned that in this instance an act of penetration could be debated by a suspect but an act of sexual contact would have no interpretation problem. I felt that it would be better to catch a culpable person on this than on nothing at all and then hope for a successful post-exam interrogation if they failed. Because of all this, I went after my specific issue with the following relevant questions:

33. Did you have any inappropriate sexual contact with Becky on February 14th?

I then simply reversed the order of this question for the remaining relevant. Doing so allowed me to maintain the purity of the issue:

35. On February 14th, did you have any inappropriate sexual contact with Becky?

For control (comparison) purposes, I asked the following time-barred questions:

46. Between the ages of 21 and 32, do you remember ever thinking of engaging in a sex act with someone against their will?
47. During the first 21 years of your life, do you remember ever engaging in an unnatural sex act?

48. During the first 32 years of your life, do you remember ever feeling an improper sexual attraction to someone who was too young?

I used a Lafayette LX3000 computerized instrument for the exam. The exam type was a ZCT (Backster) “YOU” phase. I ran three charts during the exam and Simpson answered “no” each time I asked the above questions. Except for some unusable data rendered during a short period of Simpson’s erratic breathing, there was enough useable data to adequately score the exam, which allowed me to arrive at an opinion of “NDI” for the exam. Polyscore provided a confirmation of my finding.

After his exam, no more evidence surfaced against Simpson. All other leads were followed to conclusion, but no other suspect was developed. The investigation had come to a dead end and Det. Hayes had to return her attention to other pending and newly assigned cases.

As mentioned earlier, this case suffered in part from the lack of a rape “kit” that should have been processed when Becky was at the hospital. This meant that the investigation lacked standard swabs from the victim that might have contained DNA from the suspect. In 2011, while conducting a review of this case, Det. Hayes submitted a pair of the victim’s underpants to the Washington State Patrol Crime Laboratory for DNA evidence processing. The underpants had been collected on the day of the incident by one of the original responding police officers, but they had not been considered for processing. By April 2012 DNA processing was finished and the following results were in:

- Two DNA types were found to be present on the underpants;
- One type positively belonged to the victim;
- The remaining sample was determined not to belong to Brian Simpson thus officially clearing him as a suspect;
- The remaining unidentified sample was compared to a statewide database of convicted felons; and finally
- A match was then made on Jerry Swagerty, a convicted felon, who had no record of sex offenses.

Jerry Swagerty was located in California where he was arrested and extradited to Washington State. He has been charged
with Child Molestation in the 1st degree and Child Rape in the 1st degree. A charge of Kidnaping in the 1st degree is pending review.

It is now clear that Brian Simpson was not responsible for this crime. Despite everything else that made him look like the culprit, a polygraph exam was the first thing to vindicate him. At the time that he passed the exam, some detectives were still convinced that he was good for the crime because he was initially such a good fit. They questioned the results of the polygraph exam, which affected me -- I even had a tough time eliminating Simpson even though I knew that I had administered a competent exam. In the long run however, this case proved polygraph accuracy yet again. It also reminded me of a phrase stressed by Cleve Backster during my polygraph training, directed to the occasional doubtful examiner: “Trust your charts!”
Biographical Information

Det. Steve Shake (ret.) holds a Bachelor of Arts degree in Criminal Justice (Wash. St. Univ.) He began work as a police officer in 1977 and then worked for Tacoma PD for 32 years. Before retiring at the end of 2011, he worked numerous assignments and obtained Master Instructor Certifications in Police Defensive Tactics and in Police Motorcycle Operation. His final assignment was as a composite sketch artist & polygraph examiner in the Special Assault Unit 4.

Det. Cassie Hayes is a 24-year veteran of the Tacoma Police Department. Currently assigned to the Career Crimes Unit, she's responsible for burglary investigations in Sector One of the city. She is the recipient of two Awards of Merit and was named TPD’s Officer of the Year in 1996. She is completing work on her Bachelor’s degree in Interdisciplinary Arts & Sciences, with a minor in Criminal Justice (Univ. of Wash.)
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