

“This Polygraph May be Indicative of”

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The polygraph ride goes on! The Best Practice Committee, appointed by the Sex Offender Management Board (SOMB) to lay the groundwork (i.e. make recommendations) for the re-write of the Polygraph Section of the SOMB Standards and Guidelines, portrayed bias as it began its work a year and ½ ago. Jeff Geist, Parole Manager, stated in unequivocal terms that “we are not getting rid of the polygraph.” Despite the fact that at least 30% of America’s states do NOT utilize the polygraph with those who have offended sexually, recidivism numbers are similar across 100% of states, and research articles pose serious problems with the polygraph, Colorado clings tenaciously to the “tool” that they seem to trust beyond all others.

Yes, we were informed while serving on that same Best Practice Committee that there are “hundreds of other assessment tools that we can use”; yet in spite of that, the polygraph reigns supreme. The Best Practice Committee and the SOMB do point out in this re-write that the polygraph cannot be utilized by itself to send someone to prison, to take away their liberties etc.

While the new Standards make it clear that a TEAM decision is necessary to revoke someone, in reality, the latitude frequently allowed probation and parole officers, as well as therapists (all part of the Community Supervision Team) in individual decision making frequently puts a client on the path to probation revocation and a trip to prison, or parole revocation and a trip back to prison before the team has a chance for a serious discussion of ALL its members. A client recently told me that the therapist who led his group told him that if he did not pass his polygraph which was coming up in a couple of days, he would be sent back to prison for life (May/June 2017). He is now back in prison as his polygraph was halted, in his words, because he moved his fingers. The polygrapher halted the examination.

Two men have come to me recently stating that their written polygraph results made a statement something like this: “This polygraph may be indicative of being inconclusive (or deceptive)”. This is a bit of a shock, as it has not been a regular practice, at least in my time involved with the SOMB, to share written polygraph results with men, or to qualify any statement made about the polygraph being inconclusive or deceptive. Once that result is shared, usually via the therapist with the client, the client is held responsible for “clearing up” the failed polygraph as soon as possible and at his/her own expense. The “may be indicative of” statement raises questions. What is the polygrapher trying to say with this sentence? It sounds pretty iffy. Is this the kind of instrument/test (at \$250.00 a pop) that we want to at least partially, base our treatment and placement decisions on?

We know from research that polygraph tests produce false positives (people who did not do what the polygrapher asked about looked as if they did from the test); and that these tests also produce false negatives (i.e. people who did do what the polygrapher asked about come up looking as though they did not). This allows people who should have been reviewed for their safety in the community to move about as usual. It also punishes people who did not need to be reviewed for their community safety practices by limiting their movement. This is where we truly hope and pray that TEAMS are utilizing all of the other assessment tools to try to “manage” the results of the polygraph.

Why does it appear that fairly suddenly, polygraphers are using iffy words in their written test results? Why are they suddenly sharing these with clients? Or are treatment professionals making the decision

to share these results with clients? There is real potential liability for pronouncing someone "safe" to be in the community who really isn't based on this overdone instrument. There is also great risk that someone who does not deserve to pay for three or four more polygraphs to "clear things up" may end up having to do just that because of the polygraph results.

Since the von Behren case, there has also been a scurry to change the way polygraph test questions are utilized and designed. The von Behren case basically ruled that a client did not have to answer incriminating questions regarding behaviors for which he/she had not been charged and convicted. This is a 5th Amendment right. With the t.v. and newspaper investigations that recently took place in the Denver area, we can expect much more on this instrument whose findings are not allowed in court!