

California Coalition on Sexual Offending

# Position Paper for Clinical Polygraph Examinations in Sex Offender Treatment

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## **Clinical Polygraph Examinations in Sex Offender Treatment**

The polygraph instrument precisely records physiological measurements that are interpreted in accordance with specific protocols by professional polygraphists with specialized training. These interpretations are used to form professional opinions about whether an examinee was attempting deception while answering specific “relevant” questions during the examination.

The California Coalition on Sexual Offending (CCOSO) supports post-conviction (clinical) polygraph testing of sex offenders. The CCOSO believes that post conviction sexual offender polygraph testing (PCSOT) motivates clients to be truthful about their past sexual behaviors, possible recent relapses, and high-risk conduct.

### **Benefits**

PCSOT is an effective and important management and treatment tool that can help lower sexual and general criminal recidivism during supervision and treatment [1]. Further, PCSOT dramatically increases disclosure of relevant historical information, allowing for more precise targeting of treatment interventions [2-4]. PCSOT also increases clients’ propensity to engage in honest relationships outside the treatment setting, thereby improving quality of life for examinees and those around them. Demonstrable benefits during supervision and treatment suggest that offenders whose treatment includes PCSOT may be less likely to reoffend after treatment and supervision ends. Therefore, available evidence suggests that PCSOT improves community safety.

### **Test Accuracy and Treatment Provider Responsibilities**

A properly administered single issue polygraph examination can be an effective method for helping knowledgeable professionals distinguish truthfulness from attempted deception during the sex offender management and treatment process [5-10]. The CCOSO also recognizes legitimate concerns over polygraph’s limitations due to issues of standardization, reliability, and validity. However, adhering to standardized examiner training and offender-testing practices [11-13] is believed to reduce error rates . To date, there is no evidence that gender effects test accuracy or utility. Altogether, research and collective experience suggest that PCSOT can meaningfully inform sex offender treatment and that this is particularly true when it is one of a comprehensive battery of management and treatment tools applied in the context of an effectively implemented containment program [14, 15].

Test validity and reliability have not been empirically studied specifically in the PCSOT setting. The CCOSO recognizes that polygraph is a complex procedure, the outcomes of which can be synergistically affected by [16]:

- Examiner experience, characteristics, and practices
- Examinee experiences, characteristics, culture and behavior
- Program culture within which it is integrated
- Idiosyncratic situational factors
- Instrumentation and interpretation procedures
- Base rates of attempted deception in the population being tested
- Pre-examination data collection procedures

Although existing accuracy studies do not include individuals under the age of eighteen or persons with intellectual disabilities, more than a decade of collective experience suggests that it reasonable to use polygraph as a clinical tool with youth thirteen to eighteen years old and with developmentally disabled individuals. Confidence in charts from such individuals should decline with declining age beginning at eighteen and/or level of intellectual functioning. Determining the appropriateness of polygraph testing with minors and intellectually impaired individuals or using polygraph results to assist with decision making in their cases requires consideration of these limitations.

As with any test, professionals who utilize examination results for making case management and treatment decisions should understand and account for all relevant factors and place test results in their proper perspective in each case. Both under-valuing of and over-relying on PCSOT can be detrimental to assessment and treatment; contributes to inappropriate decisions, and places the community at increased risk.

### **Examination and Examiner Guidelines**

The California Association of Polygraph Examiners ([CAPE](#)), the [American Polygraph Association](#) (APA) and other professional polygraph organizations have developed guidelines defining examiner competence and ethical examiner practices. The CCOSO collaborates with the CAPE and other professional polygraph organizations to maximize ethical PCSOT best-practices and encourages further study to improve PCSOT utility and accuracy, and to establish differential standards for use with various populations.

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### **Confidentiality – Violations During Treatment**

Sex offender management and treatment necessitates limiting traditional patient-psychotherapist privilege and confidentiality. Clients should be encouraged to self-report misbehavior. This is best accomplished by informing them that “Deception Indicated” polygraph chart interpretations can lead to increased surveillance, restrictions and thorough investigations, making discovery of illicit behavior more likely. However, consequences for illicit behavior may be mitigated if clients self-disclose violations rather than waiting to be discovered.

## **Confidentiality – Deviant History**

PCSOT's usefulness as a clinical tool derives from its ability to elicit historical information, allowing psychosexual behavioral patterns to be more fully revealed, better understood, and more effectively managed and changed. However, client disclosures of potentially incriminating information to mandated reporters could lead to further prosecution. This may end the very treatment the information was intended to enhance.

Excepting the obligation to protect potential victims at current risk, using a clinical polygraph examination to extract incriminating historical information is only ethical when clients are protected from the legal consequences of their honest self-report about pre-treatment behaviors. Some jurisdictions encourage PCSOT use and avoid constitutional challenges by providing limited legal immunity to examinees. Such immunity may enhance test utility in that it calls for nothing to be withheld. Proponents of this method also point out that its use allows authorities to locate previously unreported victims and contact them for purposes of offering counseling and supportive services.

Another method of safeguarding clients from potential consequences of honest historical self-report is to collect only information that does not identify particular victims (e.g. victim #1, #2, etc.). Some programs prefer this method even when immunity is available, since some clients may not completely trust immunity grants and might be more likely to attempt concealing potentially incriminating information, even when they are promised limited immunity. Some advocates for the victim anonymity method also assert that immunity that generates victim outreach re-victimizes some former victims by unwanted invasion of their privacy. Finally, advocates of the victim anonymity method point out that immunity grants combined with victim outreach are unfair to former victims who would have initiated prosecutable reports at a later time.

**The CCOSO recommends the following to enhance test accuracy, balance client confidentiality with community safety, and protect program integrity [17].**

1. Treatment providers and polygraph organizations should
  - Establish standardized methods for collecting pre-test information and preparing sex offender examinees for polygraph examinations.
  - Conduct robust studies across age, gender and I.Q. ranges to establish test validity and reliability so that the polygraph can be generalizable across populations when interpreting test findings.
2. Examiners should always mention and briefly explain the limitations of polygraph findings as they apply to specific cases in their reports.

3. PCSOT should be used in a [containment model](#) context.
4. Examiners working on Containment Teams should adhere to [guidelines](#) promulgated by the [CAPE](#) and other [professional polygraph organizations](#).
5. All crimes and rule violations committed during treatment should be promptly reported to appropriate officials. Clients should be informed in writing before beginning treatment, that such reports will be made.
6. Clients should not be prosecuted for crimes committed before beginning treatment when such prosecution would rely on disclosures made in the treatment setting. Written limited immunity agreements with prosecutors and/or refraining from collection of victim identities are acceptable methods of protecting clients from such prosecution.
7. Treatment providers and supervision officers should be knowledgeable about the ways in which various factors can affect test results and utility before employing PCSOT in their practices. These factors include but are not necessarily limited to:
  - Examiner experience, characteristics, and practices
  - Examinee experiences, characteristics, culture and behavior
  - Program culture within which it is integrated
  - Idiosyncratic situational factors
  - Instrumentation and interpretation procedures
  - Base rates of attempted deception in the population being tested
  - Pre-examination data collection procedures
8. Polygraphy should not be the only form of monitoring used by a containment team. Other methods such as electronic surveillance, collateral contacts, face-to-face meetings with the individual, chemical testing and unannounced field visits should be regularly employed.
9. Polygraph charts should never be the sole basis for making significant case decisions.
10. Particular caution is warranted with clients who:
  - a. Are between the age of thirteen and eighteen
  - b. Manifest impaired reality testing
  - c. Take medications or have health conditions known to effect the physiological responses on which polygraphy relies
  - d. Appear unable to produce “Deception Not Indicated” charts even when independent information makes it highly unlikely they are being deceptive

- e. Have cognitive/intellectual functioning deficits.
11. Polygraph, correctional, and psychotherapy professionals should actively cooperate and encourage joint research and other ventures to enhance PCSOT standardization, validity and reliability. This would in turn, enhance accuracy, utility and ethical practice.
  12. CCOSO members using any testing procedures, including polygraph examinations should avoid under-reliance or over-reliance on test results by noting appropriate strengths and limitations of those tests when reporting outcomes or in court testimony.

## References

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15. English, K., S. Pullen, and L. Jones, *The containment approach: An aggressive strategy for community management of adult sex offenders*. Psychology, Public Policy, and Law, 1998. **4**(1 / 2).
16. Kokish, R., *The current role of Post Conviction Sex Offender Polygraph Testing in Sex Offender Treatment (in publication)*. Journal of Child Sexual Abuse, 2004.

17. Blasingame, G., *Suggested clinical uses of polygraphy in community-based sexual offender treatment programs*. *Sexual Abuse: A Journal of Research and Treatment*, 1998. **10**(1): p. 37-45.

### **World Wide Web Links**

California Association of Polygraph Examiners (CAPE)  
[www.californiapolygraph.com](http://www.californiapolygraph.com)

CAPE Sex Offender Polygraph Testing Guidelines  
<http://www.ccoso.org/internal/SexTestingGuidelines.doc>

CCOSO Position Paper on Sex Offender Containment  
[www.ccoso.org/papers/containment.html](http://www.ccoso.org/papers/containment.html)

Polygraph Examiner Associations  
[www.polygraphplace.com/docs/state.htm](http://www.polygraphplace.com/docs/state.htm)