

What Practitioners Think About Ethical Dilemmas of Post-Conviction Sex Offender (polygraph) Testing (PSCOT):

Results From a Convenience Sample

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The 2002 conference of the California Coalition on Sexual Offending (CCOSO) included a workshop on the ethical dilemma inherent in PSCOT. The present author was primary presenter. Brian English of The Backster School of Lie Detection and L.C. Miccio-Fonseca, PhD, a clinical evaluator and researcher responded to the author's views.

The presentation offered empirical data supporting the author's opinion that PSCOT allows containment-oriented treatment programs to obtain more complete information about sex offenders and increases supervision and treatment compliance. Additionally, anecdotal evidence gives reason for optimism that polygraph contributes to post-treatment offense reduction and more fulfilling lives for offenders and their intimates. However, available accuracy data also suggest that between $\frac{1}{4}$ and $\frac{1}{2}$ of polygraph charts indicating deception are incorrect. Since polygraph is theoretically based on fear of being caught lying, it is necessary to attach significant consequences to deceptive charts. This puts practitioners who use PSCOT in the position of knowing that $\frac{1}{4}$ to $\frac{1}{2}$ of examinees they sanction for deception are in fact, victims of test error.

The primary presenter posed this as an ethical dilemma. Not using polygraph means that management and treatment will probably be less than maximally effective, leaving communities at increased risk. But using polygraph leaves practitioners in the position of unfairly sanctioning some offenders for lying when they are in fact being truthful.

Following the presentation, the 40 workshop participants were asked to discuss the dilemma in small groups and complete a questionnaire asking:

1. Which individuals have the biggest stake in polygraph use?
2. How can the dilemma best be managed?
3. How might the dilemma ultimately be resolved?

Participants were also invited to register for an ongoing electronic discussion group to improve polygraph use with sex offenders in California. Twenty-three participants chose to complete the questionnaire. They included 10 parole and probation officers, 9 mental health professionals and four respondents who did not specify their profession. Six respondents registered for the electronic discussion group.

The questionnaire was poorly constructed, making it difficult to categorize and quantify narrative responses. Consequently, no statistical analyses of these data would be meaningful. Nonetheless, some clear trends were evident. The clearest trend was

virtually unanimous agreement that potential victims and their families were the biggest stakeholders in polygraph outcomes. There was also strong agreement that examinees and their families were the next biggest stakeholders, with therapists, supervision officers and examiners having the least to gain or lose from test results.

Questions 2 and 3 appeared to be confusing and, for purposes of analysis, answers were collapsed into a single question; how can professionals best deal with the polygraph dilemma? When the narrative answers were analyzed, the author concluded the following:

<u>Suggested Strategy</u>	<u># Endorsing</u>
Do everything possible to corroborate deception indicated (DI) charts with collateral information	11
Test the offender again, possibly with more specific questions	8
Develop clear testing standards and license examiners so they have to follow them	7
Use information clinically, with consequences for DI being limited to loss of status within program	7
More research	5
Limit sanctions to temporary loss of privileges and other "minor" reactions	5
Consider not only test results, but total history when sanctioning an individual	3
Monitor more closely	2
Sanction as if he's lying. There is no dilemma because the offender put himself in this position.	2
More training for examiners	1
Inter-examiner review of all charts	1
Always take most conservative position in response to a DI chart	1
Hold more forums and discussions to explore the issue	1
Reduce reliance on polygraph by developing additional means of monitoring (e.g. GPS)	1

One therapist commented that many offenders have been abuse victims and wrongful accusations of lying can be counter-therapeutic by replicating their abuse experiences. Another remarked that it might be unnecessary to resolve the dilemma because tension can be productive so long as there is accountability. A third opined that we need research about whether the information polygraph yields really contributes to improved treatment outcomes and enhanced community safety. If it does not, the ethical dilemma will disappear because we could discontinue PSCOT without suffering adverse consequences

Most if not all of the above suggestions are consistent with CCOSO's recently published clinical PSCOT guidelines (www.ccoso.org), although the guidelines had not been published when the survey forms were completed. These results seem to support a hypothesis that most California programs using PSCOT are aware of its limitations and attempt to minimize potentially unfair and negative effects on examinees without losing the benefits PSCOT appears to yield. However, a better-constructed and more widely disseminated survey will be necessary before we can be thoroughly convinced of this.