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Chip Morgan is a longstanding member of the APA. He began his career as a polygraph examiner with the Sheriff's Office in Boise, Idaho, later working with the PEAK Credibility Assessment Training Centre and collaborating with Stoelting, a polygraph manufacturing company.

As Director of the Polygraph School for the US Department of Defence, Morgan was deployed to Baghdad, Iraq, where he helped establish a polygraph training programme. He currently serves as Co-Director of The Polygraph Institute in San Antonio, Texas, an APA-accredited polygraph training school.

Articles

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Behind the Scenes of a Protocoled Polygraph Test

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Tel Aviw, Israel

Abstract

Contrary to the past in where polygraph examiners practiced an "intuitive-based practice" grounded on several industry leaders experience, consequently having various schools of thoughts, modern polygraph examiners follow a test protocol based and rooted in research. As effective as the "evidence- based- practice" is, it does not cover all ranges of cases, examinees, situations, and contaminations** which may carry a misleading affect. The purpose of this paper is to draw examiners attention to the existing potential hazards surrounding a protocoled standard of practice and suggest solutions in order to alter the test to the examinee ("tailor made" style test) rather than alter the examinee to the test ("one size fits all" style test).

Key words: Standard of Practice, Test Protocol, Test's influencing factors, Contaminating factors

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** For further data on the issue: Amsel, T.T. (2011), Mental Contamination. *APA Magazine, 44*(6), 28–30 and Amsel, T.T. (2017), Polygraph Examinations contaminating factors, *European Polygraph*, *10*,4(38), 7–13.

Last decades witness a growing tendency of check listing and manualizing many aspects of life. Books such as "How To... ", "...for Dummies" and alike, suggest a do-it-yourself solutions and remedies to many aspects of life. And the polygraph community is not any different with its standard of practice protocol. While for the sake of standardization protocols and checklists are necessary and, in some instances, essential, the downside is that following the protocol rigorously may turn the polygraph examiner into a technician in where discretion and flexibility is a required commodity that enables examiners to approach examinees not as "text book" models but rather as unique individuals. Unlike the technician who should master and follow to the dot a set of pre-defined step by step rules and procedures, an examiner should add to his technical aptitude sensitivity, creativity and flexibility in order to adopt, adjust and react to the ever-changing conditions of a polygraph test arising from diverse individuals, situations, and cases being handled. An examiner should have the same productive and successful interpersonal communication with a teenager as well as with an elder adult, with an uneducated examinee as well as with a university professor, with a cleaning personnel as well as with a CEO, all this without even mentioning the various topics and different cases that we are facing. This diversity leads in some instances to charged pretests, ineffective comparison questions, erratic charts and inconsistent scoring that eventually develop growing doubts and confusion, which in some cases may lead to a faulty decision.

Due to non-professional considerations, graduates of accredited polygraph examiners basic training are but no more than **instrument operators** and with extensive practice they will grow into **technicians** but nevertheless, wrongfully many of them honestly believe that they are **qualified examiners** or **expert professionals** in spite of lacking essential knowledge to become such. This is because they were trained to believe that if they will follow the checklist and protocols to the dot, they will reach an accurate and correct decision regarding the examinees' veracity. It seems that somewhere along the line they were either forgot or even worst not taught that lying is a complex process within humans. Unlike the truth teller that just has to retrieve information from his memory, a liar has to cover up the true story, make up a convincing fictitious version, memories it, cover up his fear of detection and so forth. All these put a mental burden on his mind, a burden that produces the deceptive cues and signs that we are looking for. Yet caution should be taken when looking for these cues; simply because lying per se **does not produce any exclusive** physical and/or psychological and/or behavioral cues or signs. Each and every physical response detected by the polygraph can be non-related to deception e.g., individuals exercise changes in blood pressure regardless of deception. Judging by some examiners certainty that lying is instantly mani-

fested by physical responses, it seems like as time passes the "illusory truth effect" (Vellani et al., 2023) (the tendency to believe false information to be correct after repeated exposure) creates the notion that if the examinee is innocent then no deceptive responses will be displayed (on charts) on the relevant questions ONLY on the comparison questions while vice versa with the guilty examinee completely overlooking and ignoring the GIGO (GIGO, Awati, 2024) effect.

GIGO stands for: "Garbage In, Garbage Out and it means that regardless of how accurate a (computer) program's logic is, and how accurate are the analysis algorithm the results will be incorrect if the input is invalid. While the term is most frequently used in the context of software development, GIGO is also used to refer to any decision-making process in where failure to make right decisions with precise, accurate data could lead to wrong, and faulty results. The output quality of a system usually can't be any better than the quality of its' inputs. Garbage (in) can be data that filled with erroneous or contaminated information. The solution is not just to spend time on an application's algorithms which produces the output, but more important to spend time on validating the input and/or ensuring that the right sort of data goes into the system" (GIGO, Awati, 2024). Nevertheless, in recent years the polygraph community is swamped with researches, articles, and computer software focusing on test data analysis and various numerical scoring methods (the test output) while neglecting the examinees' psychology and state of mind during the test which is the input ensures the purity of the test. With all due respect and recognition of the importance of test data analysis it is crucial to emphasize that in line with the GIGO concept, the polygraph charts and consequently their analysis is but just an outcome and a representation of: an appropriate pretest, precise relevant and effective comparison questions, a validated test format, a properly conducted test and considerations of affecting factors. Each of these components may affect the examinee's psychophysiological responses and consequently the test data analysis and the test outcome. As long as the examiner conducts an effective pretest interview i.e., creating good rapport, covering all needed information and avoid of displaying any bias regarding the truthfulness of the examinee, phrases well-constructed relevant questions, effectively presents and explains comparison questions, utilizes a validated test format and properly conducts the test, the output of these proper inputs will result (with high probability) in an accurate result. Contrarily, a poorly conducted pretest, ill phrased relevant questions, improperly developed and presented comparison questions, an invalid (or not validated) test format, an improper test conduct, and overlook of contaminating factors may increase the risk of an error, in spite of applying a highly accurate scoring method. Simply, because even the safest and

most advanced vehicles when driven by a distracted or unexperienced or poorly trained driver will not be able to avoid accidents, especially when driven on rough conditions.

The following case study analysis unveils the potential hazards exist behind the scenes of a common polygraph tests that were conducted in accordance with the APA's Standard of Practice (APA Standards, 2023), risks that may lead to confusing and false conclusions

The case study (based on a true event)

It is nine o'clock in the morning and you just started your working day when you receive a phone call from your client who is the chief of security of a consumer electronics retailer, a person that always make you feel that he knows much better than you do. Without greeting he goes: "Two hours ago, at 7 a.m., when the morning shift arrived to the warehouse, a stockman noticed that a box containing 56 pieces of new Apple iPhone 13 Pro is missing. He immediately reported me and I came at once to interrogate the five-night shift stockmen. They all denied stealing the box. I want you to come in and polygraph them immediately". Being a very important client of yours and a client who keeps telling you that he has cheaper offers from your competitors, make you reschedule your day and rush into the warehouse to test the five stockmen. Upon arriving the chief takes you to the warehouse, show you where the box was and tells you to concentrate on Jose a one-year employee: "I am pretty sure that he did it. He keeps saying that he is a very orthodox religious person, but I am pretty sure that he has stolen here before. I interrogated him intensively this morning but could not get a confession yet, all the deception signs were there. No doubt that's him".

You position yourself in a warehouse office, and you are getting ready to test in accordance with the APA Standard of Practice (APA Standards, 2023) test protocol which you follow piously. For the sake of efficiency and standardization, you formulate the test questionnaire template – "a Federal ZCT – You Phase" a validated test format by the APA Meta-Analytic Survey of Criterion Accuracy (The Ad-Hoc Committee on Validated Techniques, 2011):

I1 – Is your name _____?
SR2 – Regarding whether you stole those iphones, do you intend to answer each question truthfully?
SYM3 – Do you believe I will only ask you the questions we reviewed?
C4 – Prior to 2020 did you ever steal anything from someone who trusted you?

R5 – Did you steal that box of 56 iPhones?
C6 – In your prior workplaces did you ever steal anything?
R7 – Did you steal any of those missing 56 iPhones from this warehouse?
C8 – Prior to this year, did you ever steal anything from an employer?
SYM9 – Is there something else you are afraid I will ask you a question about?

You test all five-night shift workers. All five examinees deny stealing the Apple iPhone box of 56 13 pro pieces or any. All five employees have erratic and inconsistent charts. Four of them barely passes the test and tend to be more of an inconclusive result. Jose (the one suspected by the chief of security) has also erratic and inconsistent charts. In the post test interrogation Jose keeps continuously to deny stealing the box or being involved in any dishonest act. You report your results that four employees are truthful and Jose is deceptive. The chief of security takes you to the HR chief who is the only one responsible of firing employees. Being a cautious and responsible executive, she asks you:" How **certain are you that he is guilty or in other words how accurate are your results?**" Based on the utilized validated test format as published in the APA Meta-Analysis of Validated Polygraph Techniques (The Ad-Hoc Committee on Validated Techniques, 2011), came your answer "90.4%". With no hesitation the HR chief lays off Jose.

On the next day the chief of security calls you: "Your results were wrong. The missing 56 iPhone box was found. It has been misplaced in another area of the warehouse by the warehouse chief a weak ago". The chief of security demand to know how come Jose results were false positive? You remain speechless and confused wondering what went wrong. After all you followed the APA Standard of Practice (APA Standards, 2023) to the dot using a validated test format and a validated test data analysis.

In your efforts to understand what went wrong you send your test materials to include: case data, examinee details, charts and test data analysis to an experienced examiner who is your old mentor and ask for his opinion. In return you receive his report detailing possible factors that influenced the tests to inclusiveness preventing you of reaching accurate diagnosis.

Case study analysis

Follows a list of different factors that may affect the test outcome. Some have a greater effect than others. Due to the fact that each examinee has a different personality It is almost impossible to determine which factor played a major role, or a lesser

role if any on their outcome. To some individuals one factor may play a critical role, while with another individual the same factor may have a smaller impact if any. Only a very wide thorough research in where personality types will be categorized will enable in the future to implement what was suggested and coined by Ginton (2013) as "Adaptive Polygraphy" which will enable examiners to practice "Personalized Polygraphy" similar to what physicians practice as "Personalized medicine" (National Human Genome Research Institute, 2024), which categorize individuals into different groups to include medical decisions, practices, interventions, and products being tailored to the individual patient based on their predicted response or risk of disease.

Regardless of the exitance of a contaminating factor and its' weight on an each and every individual examinee, it is reasonable to assume that combination of various factors bears an accumulated weight that may lead to a false result.

In order to reach an accurate conclusion in this particular case, it is suggested to interview each examinee individually in order to learn what bothered him in the test. Nevertheless, it seems reasonable to assume that the combination of the following factors affected all of the examinees (unknown to what extend): lack of incubation (see explanation) fatigue, security chief's prior interrogation, and test anxiety.

Examinees mental and physical state prior to the test

Contrary to the overly simplified notion that "if the examine is truthful than her/his body will not respond to the relevant questions and if s/he is deceptive s/he will respond". Examinees are not vending machines in where you insert the relevant question and the machine immediately submit an answer. The responses displayed are psychophysiological i.e., a psychological mechanism commence the physiological responses displayed by the examinee.

Human psychology is complexed. With some extremely complexed with other less complexed but regardless of the complexity the examinee's psychology is a representation of what's on her/his mind to include conscious, unconscious thoughts and feelings. Once the examinee is being notified that s/he is scheduled for a polygraph test, regardless of her/his innocence or guilt regarding the matter under investigation her/his thoughts and feelings are occupied with the upcoming test creating anticipation and anxiety. Examinees shared the following thoughts that cross their mind: "What is this test?", "How reliable is the test?", "Can my nervous-

ness fail me?", etc. The following list is applicable in general to every examinee, but particularly to these five warehouse examinees:

- Reject the process and wish to leave ("I don't need this aggravation");
- Concerned if they will get paid overtime;
- Contaminated by outside issues unrelated to the theft, that might affect the outcome:
  - **Physical:**
    - Hardship to focus and concentrate due to fatigue, and hunger.
  - **Emotional:**
    - Excessive interrogation prior to the test that may develop a strong guilty feeling and confusion of being responsible to the theft ("after all it happened on my shift").
    - Insult ("After so many years they still doubt my honesty?").
    - Humiliation ("It's a test for criminals").
    - Extreme emotional tension and nervousness.
    - Lack of proper incubation – lack of explanation about the test and no time to digest the idea of the test.
  - **Cognitive:**
    - Concealment of other crime and/or relevant information.
    - Fears examiner's lack of objectivity and/or professionalism.
    - Fear of error.
    - Disbelief in the polygraph.
    - Outside issue – distraction due to an unrelated matter.
    - Over anxiety over the possibility of failure.
    - Prior tests (either mistaken results or bad experience).
    - Misunderstanding of the RQ or CQ sue to limited cognitive capability.

Due to the above-described thoughts and emotions examinees who were not incubated properly prior to the test may produce a faulty result. The possible contamination effect on the test was recognized since early days of polygraphy. Follows some remarks about:

Trovillo (1939)

"A suspect may give a large response [...] not because he is guilty of robbing [...] but because he has robbed [in] other [...] places".

Backster (1961)* – "Outside Issue Factor"

"Dampening (or Super Dampening) effect" that may suppress the examinee's reactivity to the relevant (of a guilty examinee) or to the comparison (of a truthful examinee) questions."

Reid (1977)

"The following factors that may affect test results: lack of concern over the possibility of detection, extreme emotional tension or nervousness, over-anxiety to pass the test, anger, guilty feelings, involvement in other similar acts or offences, physical discomfort during the test, excessive interrogation prior to test, excessive number of test questions, prior test, adrenal exhaustion, rationalization, and self-deceit".

The contamination effect was researched and the conclusions were:

Krapohl & Strum 2002

"...negligible or nonexistent consequence that results in noisy and erratic charts."

Honts, Amato & Gordon 2004

its presence "had a strong differential impact on the participants who were innocent of the tested issue, and **it dramatically moved their scores toward deception**. The impact of an outside issue on the guilty was minimal".

Incubation

In an on-going problem-solving situation, the best way is to divert the attention from searching a solution and focus on something else. **incubation** refers to the unconscious processing of problems, when they are set aside for a period of time (break time), after the incubation period a 'flash' of creative inspiration or the solution to the problem comes to mind. The efficiency of incubation period is researched by comparing the time it takes to solve the problem Without incubation vs. problem solving with incubation. Smith & Blankenship (1989) found that **Incubation period increases' the problem-solving ability**. Sio & Ormerod (2009) concluded that Incubation period improves the cognitive and verbal capabilities.

* In 1961 Backste's Zone Comparison technique and Backster's quantification system, was adopted by the US Army C.I. D. Polygraph School at Fort Gordon.

There is no existing research regarding the effect of incubation on examinees. Nevertheless, vast cases of examinees who had no incubation and especially those who were interrogated prior to the which they failed passed the retest after proper incubation.

Examinees (especially innocents) who were incubated report of determination and self confidence in spite of natural test anxiety thus producing clear and accented responses.

This experience led the Israeli National Police Polygraph Laboratory, the IDF CID & Israeli Polygraph Examiners Association (IPEA) – to recommend on their "Standard of Practice" "Polygraph Tests – Pre requisite" (IPEA Standard, 2000) the following: "An examiner is required to avoid testing if (5) The examinee was intensively investigated (interrogated) on the day of the test, (8) If the examinee was not notified of the test and its scope at least 12 hours prior to the test and (9) it is recommended to notify the examinee at least overnight prior to the test.

Procedure

In order to reduce the influencing effects of these factors on examinees, proper incubation should be exercised at least a day prior of testing as follows:

- Advise the examinee of the test at least twenty-four hours prior to the test;
- Do not interview or interrogate the examinee at least six hours prior to the test;
- Allow examinee to rest prior to the test;
- Allow examinee to take his or her usual medication;
- Explain the polygraph in general;
- Perform a medical, a mental-history, and a status check;
- Explain the reasons for testing;
- Explain the test procedure, including the place, time, and length;
- Explain subject's legal status and right to refuse;
- Explain the results consequences;
- Describe the examiner's background.

Pre-Pretest Prior Expectations

The effect of prior expectation on the test results were researched extensively (especially its' effect on the examiner). Follows some known effects:

Effect on Examinee – If the examinee does not trust the polygraph test, polygraph instrument, the lack of examiner's objectivity or all of the above the examinee might develop what is known as "self-fulfilling prophecy" that may lead the innocent examinee to either display an erratic and inconsistent chart (inconclusive) or to fail the test (false positive). The phenomenon corner stone was laid by Thomas (1928) concluding that "If men define situations as real, they are real in their consequences." This phenomenon creates within the individual a mental contamination which was defined by Wilson & Brekke: "...the process whereby a person has an unwanted response because of mental processing that is unconscious or uncontrollable. This type of bias is distinguishable from the failure to know or apply normative rules of inference and can be further divided into the unwanted consequences of automatic processing and source confusion, which is the confusion of two or more causes of response. Mental contamination is difficult to avoid because it results from both fundamental properties of human cognition (e.g., a lack of awareness of mental processes) and faulty lay beliefs about the mind (e.g., incorrect theories about mental biases). People's lay beliefs determine the steps they take (or fail to take) to correct their judgment and thus are an important but neglected source of biases responses" (Wilson & Brekke, 1994).

So, the self-fulfilling prophecy is, in the beginning, a false definition of the situation evoking a new behavior which makes the original false conception come true. The phenomenon is divided into the "**Pygmalion Effect**"* (a.k.a "**Rosenthal effect**"), in where higher expectations lead to an increase in performance, a type of a positive effect while its' opposite effect is the "**Golem effect**" in where lower expectations placed upon individuals either by supervisors or the individual themselves lead to poorer performance by the individual.**

A proper pre-pretest incubation, extensive explanation of the anatomy related to the test (FFF) in the pretest interview, a clear and simple explanation of the polygraph instrument functions and the test procedure, and last but defiantly not least informing the examinee of her/his legal rights and her/his prerogative to refuse to take the test, has a strong impact on the examinee and portrait the examiner as objective, and professional which decrease the innocent examinee's anxiety while increase the guilty examinee's fear of detection.

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* "Pygmalion Effect", https://en.wikipedia.org/wiki/Pygmalion_effect (accessed: 12.02.2024).
** "Golem Effect", https://en.wikipedia.org/wiki/Golem effect (accessed: 29.01.2024).

Effect on Examiner (Prior Expectations of client)

The case data mention that the chief of security is a person "that always make you feel that he knows much better than you do ... (and he is) pretty sure that Jose did it ... (because) all the deception signs were there. No doubt that's him (Jose)". "Being a very important client of yours and a client who keeps telling you that he has cheaper offers from your competitors, make you reschedule your day". This description is a classic example of a confirmation bias which defined by Britanica* as: "people's tendency to process information by looking for, or interpreting, information that is consistent with their existing beliefs. This biased approach to decision making is largely unintentional, and it results in a person ignoring information that is inconsistent with their beliefs. These beliefs can include a person's expectations in a given situation and their predictions about a particular outcome. People are especially likely to process information to support their own beliefs when an issue is highly important or self-relevant".

Being an important client (financial consideration) who marked Jose as the thieve of the box creates within the examiner's a conscious or unconscious tendency to fulfill the chief of security wish which in return may have an effect on the examiner approach to the suspected examinee in the test. He may:

- Display disbelief in the examinee during the pretest
- Won't listen actively to what the examinee has to and wants to say
- Tends to be aggressive
- Do not bother to discuss thoroughly the comparison questions
- Do not try to assess the questions' effectiveness,
- Overlook some of the reactions while scoring

This type of approach and behavior creates an impression on the subject that regardless of his innocence the examiner is convinced of his guilt which in return may commence a "Golem Effect" leading to a false positive outcome.

The theory of the confirmation bias effect on examiners is supported by researcher. Elaad et al. (1994) found that: "Prior expectations affected the examiners' judgments when the polygraph charts did not include clear indications of guilt or innocence, but when the objective physiological evidence included strong indications which clearly contradicted the examiner's expectations, judgments were not affected by these expectations." Krapohl & Dutton (2018) found that: on average, polygraph scores and decisions were shifted in the direction of the bias-

* "Confirmatory Bias", www.britannica.com/science/confirmation-bias (accessed: 30.01.2024).

ing information. The shift was evident for both clear and ambiguous data. Not all scorers were affected by the biasing information." Shurany et al. (2009) found that once examiners who did blind charts evaluation and were told that based on forensic evidence (finger prints) it is evident that the examinee is guilty they moved significantly in the direction of deception although the charts in reality was of innocent examinee.

These researches indicate that it is evident that prior expectations and/or prior information may affect the examiners' decision making. Yet, it seems that it effects examiners only when the TDA is ambiguous. It should be emphasized that these researches examined the impact of prior expectations and/or prior information on examiners **who evaluated charts blindly and not on the examiners that conducted the actual test**. In other words, they lacked the examinees' behavioral information that might zeroed the prior expectation and/or prior information effect. This assumption is supported by Elaad et al. (1998) study that found no relationship between the final judgment of the examiners and their prior expectations. Regardless, examiner should be aware of the danger of prior expectation and/or prior information on approaching the examinees and when analyzing their charts.

Overcoming Conformation Bias

There are no magic formulas to overcome the confirmation bias except in order to reduce the bias effect, take the following measures: Before staring the tests surface its' exitance and warn yourself from its' impact on you and be open to change your mind by arguing against.

Test questions:

As a rule, **do not use a preset questionnaire template. Develop questions AFTER hearing the examinee's version, using examinee's language, jargon, expressions and terminology**. This is especially a must regarding the comparison questions in where a detailed and an extensive discussion is needed in order to ensure that either the examinee is lying in her/his answers or at least s/he hesitant and/or unsure of its' veracity.

Regarding the relevant questions (RQ) and the comparison questions (CQ) of these specific tests.

RQ

In one hand in order to be accurate and eliminate the possibility of another stolen box of iPhones the examinees were asked:

R5 – Did you steal that box of 56 iPhones?

R7 – Did you steal any of those missing 56 iPhones from this warehouse?

These phrasing is faulty if the box contained less than 56 iphones. The examinee, knowing that there were less in the box may pass the test because he is certain that he has not stolen 56 iphones. Therefore, the questions should not mention number of iphones and be phraed: "Did you steal this iphones box?"

CQ

C4 – Prior to 2020 did you ever steal anything from someone who trusted you?

C6 – In your prior workplaces did you ever steal anything?

C8 – Prior to this year, did you ever steal anything from an employer?These are very generic general CQ. Especially with Jose in where it is recommended to develop religious theme, sins, etc. they would have been much more effective.

As a rule of practice, it is recommended to get at least a small confession. This way when you ask "Other then what you have told me is there ...." It makes the examinee to think if there is? which for itself might provoke a response.

Test Data Analysis (TDA)

As mentioned earlier the charts are but a representation of prior test phases or as coined Garbage In, Garbage Out (GIGO, Awati, 2024) – The quality of the input will determine the quality of the output. e.g., A recipe is a checklist of how to prepare a dish. But, the quality of the dish (output) determined by the quality of ingredients used and the cook's proficiencies (input).

Charts are a reflection of the input's quality – a graphic representation of the quality of pretest and test.

Quality Input: An appropriate and effective pretest which require extended proficiencies in inter-personal communication, establishing rapport, linguistic abilities to phrase precise relevant questions, properly developed and presented comparison questions, effective comparison questions, active listening, a validated test format and a properly conducted test. If done properly the output will produce with high probability an accurate result

Poor input: ignoring contaminating factors, lack of incubation, unsuitable examiner attitude, ill phrased relevant or improperly developed and presented comparison questions, invalid test format and improper test conducted may result in a false result output.

TDA (chart scoring) is a simple basic technical proficiency of measuring height and length of lines. The accuracy of the test result ARE NOT determined by the validity of the TDA but on the quality of the input. Regardless of the practiced test format validity and the TDA validity of the input was poor then the output is questionable.

Results Accuracy

The HR Chief asked the examiner:" How certain are you that he is guilty or how accurate are your results?" and the examiner answered: "90.4% accurate" which was based on the accuracy percentage of the test format. This is a TOTALLY wrong answer.

Regardless of academic research validity issues such as: type of research, research populations and alike, **the fact that an examiner uses a validated test format does not validate a specific test** e.g., Driving the best and safest vehicle that has top safety features, and is the most comfortable and reliable vehicle, **does not guarantee** that this vehicle will not be involved in a fatal accident if driven by an unqualified driver or in unusual terrain, weather, rough condition or tired driver. A disqualified polygraph operator, who poorly conduct the pretest, do not explain the CQ as needed and badly phrase the RQ will get false results even with the most validated format. In addition, there are other considerations such as:

- **Centralized Tendencies:**

  Validated test formats are based on quantitative research that rely on numbers and statistical analysis resulting in central tendencies of a phenomenon which creates **a statistical averaged out examinee prototype** ignoring the numerous different case types and examinees types

- **General validity BUT not on a particular test:**

  Unknown similarity between this specific case characteristics such as: examinee's personality, case circumstances, examiner approach and alike to the research's examinee prototype or potential influencing factors such as: examiner-examinee opposite genders, case type, etc.

- **Base Rate Fallacy:**

  What are the prior (to the tests) probabilities that the actual perpetrator of the crime is within this defined group of examinees e.g., if an 'inside job" probabilities are higher but if it is an "outside job" probabilities are slimer

Epilogue

Yes, polygraph examinations are not perfect! So what? Who is? There is no human or system or technique or instrument or tool that is perfect and free of errors after all it was established that regardless of their efforts to err is human. Polygraph examiners and as a result polygraph tests results are not any different. The claim that due to the importance of matter polygraph should not be practiced because of the high price of a mistake is but just a vague and empty argument made by polygraph adversaries. Physicians, Judges, Engineers, etc. are all making mistakes which by far result in a much stronger impact on people. Worst case scenario of a faulty polygraph test result is the continuous investigations of an innocent suspect or clearing a guilty suspect. This alleged damage is incomparable to a court decision to convict an innocent person or to acquit a guilty criminal. Or the medical cases in where the operation was successful, but the patient died. Nevertheless, the polygraph profession as any other professions should maximize their efforts to improve the quality of examiners and test procedures in order to reduce to minimum the errors. Unfortunately, it seems that the current polygraph industry leaders because of unprofessional considerations does not bother to do so. And the American Polygraph Association (APA) is an example. The APA requires 400 hours of studies in order to accredit a basic polygraph examiners training program (APA Accreditation Standards, 2022). Yet, in spite of the fact that the examinee's psychology, is responsible for almost the entire test result the APA accreditation requires ONLY 6.25% of the 320 hours of basic polygraph examiner training (+80 hours of practice) to psychology while 12.5% is dedicated to chart analysis which leads to the conclusion that the APA notion is that a polygraph examiner is actually a technician. Is he really so?

Apart of reforming the training syllabus and apart of mandatory internship an examiners' grading and typing categorize should be created. A categorization that reflects continuous education, experience and examinations from level to level. The level type will also determine what type of tests each level is permitted to practice. Follows a preliminary sketch of the suggested idea:

Level D – Intern: An intern is a freshly out of basic polygraph training from graduation for 1 year and minimum 250 tests (50% specific tests and 50% screening tests) under supervision. Upon completion the examiner will have to take a practical test in where the intern will have to demonstrate successfully confronting those cases. If successful the intern, then will be moved to the next level.

Level C – Operator: As an operator the examiner should work as practical examiner for 2 years and conduct at least 500 tests (< 50% specifics). Upon completion the examiner will have to take a one-week advanced training and a theoretical and practical test. If successful the operator will be move to the next level.

Level B – Examiner: As an operator, the examiner should work as practical examiner for 3 years and conduct at least 750 tests (< 50% specifics). Upon completion the examiner will have to take a two-week advanced training and a theoretical and practical test. If successful the examiner will be move to the next level.

Level A– Specialist**:** As a specialist and in order to continue holding this level the specialist should have an advanced one week training every second year.

These levels reflect the understanding of the complexity of a polygraph test, the needed theoretical knowledge and practical experience.

Excellent examiners sometimes do terrible mistakes, while terrible examiners sometimes perform excellently. The question is how often? And why? The polygraph does not err and produce false results. A qualified polygraph examiner is aware of the risks and hazards and cope with them. A polygraph operator/technician who ignores the **risks and hazards** is the one responsible for false results. Keep in mind that experience is not measured by the numbers of tests you did or by the number of years you practice the profession, experience is measured by your ability to learn from your mistakes and avoid repeating them. That is why 20 times 1 year of experience does not equal 20 years of experience. And the suggested categorization ensures genuine experience.

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Polygraph Examination in Lithuania: History, Legal Framework, and Practice

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Abstract

Polygraph has had more than 30 years of extensive history in Lithuania. This paper offers an overview rather than in-depth research into how polygraph developed in Lithuania in last three decades. There are similar articles about legal and practical aspects of using polygraph in Lithuania published in Lithuanian, with one of them having been published in European Polygraph in 2007 (Kraujalis et al 2007) nevertheless, the author evaluates current situation of the polygraph in Lithuania.

Key words: polygraph, polygraph examination, history of polygraph in Lithuania, lie detection, polygraph law, polygraph resolution, polygraph legislation in Lithuania

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History

This paper presents the personal memories and institutional memory of its author, who has worked with the polygraph in Lithuania since 1997.

More than 30 years have passed since the first polygraph examination in Lithuania. Currently, it is hardly possible to find out when exactly the first polygraph examination was conducted in Lithuania, but it can be safely dated to c. 1992–93. That indicates that just after Lithuania regained independence, such institutions of the Lithuanian state as the Government Security Department under the Ministry of the Interior of the Republic of Lithuania (hereinafter, GSD) that has subsequently transformed to Government Security Service of the Republic of Lithuania (hereinafter, GSS) were the pioneers of polygraph use in Lithuania. To the best of the author's knowledge, gained while working on his master degree paper called "Lie Detection Method: Theory and Practice" (defended in 1997), which had the author communicate with the supervisors of the above-mentioned Department in the early 1997 (Kraujalis, 1997), and the author's memory, the GSD had already had around four trained polygraph examiners at that time. Three of them started their polygraph examiner careers in the earliest days of its use in Lithuania. A few years later, two of them continued conducting polygraph examinations, then, more recently, only one of them continued polygraph examinations and his polygraph examiner's carrier at the GSD until his retirement in around 2014. According to social media sources, he is still active in 2024.

The GSD received, quite likely, as a donation, a mechanical Lafayette polygraph, and started first polygraph examinations. The above-mentioned polygraph was four-channel Lafayette polygraph with thermal pens and was "writing" the curves on a special fax type paper.

The first 5 years of polygraph in Lithuania in the GSD was a particular period of incubation. As indicated above, the author defended his master thesis on lie detection in 1997, while further huge polygraph expansion started a year later, when the Ministry of the Interior of the Republic of Lithuania established a special section in the entity called General Inspection operating in the Ministry of the Interior (hereinafter, MoI). Along with the MoI, the Second Department of the Operational Services (Military Intelligence) created its own section expected to start polygraph examinations in the Ministry of the Defense under the Republic of Lithuania. Four Lafayette LX3000 instruments were purchased: two for either ministry.

In September 1998, Ministry of the Interior of the Republic of Lithuania invited two Polish professors, Jan Widacki and Jerzy Konieczny, to Lithuania. They provided an extensive two-week training on polygraph at a recreational facility of the Ministry of the Interior in Trakai. Around ten students from various agencies attended the class.

Along with this training, the author of this article and another prospective polygraph examiner, one representing the Ministry of the Interior and one – the Ministry of Defence, travelled to the US and completed a 10-week basic training course for polygraph examiners at one of polygraph schools, namely the Maryland Institute of Criminal Justice, fully accredited by the American Polygraph Association at that time.

The section of the General Inspection in the Ministry of the Interior later was transformed into the Immunity Unit operating under the Ministry of the Interior of the Republic of Lithuania. The Immunity Unit's primary mission was to conduct all polygraph examinations within the area of internal affairs.

The above-mentioned unit had all operational capabilities to conduct polygraph examinations: trained personnel, two computerised polygraphs, special well-equipped premises, and standard operational procedures in place. However, for political reasons, the Immunity Unit did not start practical implementation of polygraph examinations and was reorganised in May 2000. Its personnel were sent to other positions, and polygraphs were allocated to the GSD.

A section of military intelligence started conducting polygraph examinations around 1999. Thus, with the start of the new millennium, the GSD and Military Intelligence were performing polygraph examinations.

The next step in the development of practical polygraph examinations in Lithuania in 2001 came when two officers of the Immunity Unit (one of them being the author of this article) continued their duty in one of the special police agencies, which regained one Lafayette LX3000 set from the GSD, developed certain operational polygraph capabilities, and conducted first polygraph examinations in the police force in 2001–06, mostly for the purposes of preemployment and internal affairs.

The following step in development of polygraph in Lithuania was taken around 2008 when the State Security Department of the Republic of Lithuania (hereinafter, SSD) started its own polygraph programme.

Polygraph developed further when an officer of the special police agency (the author of this article, again) was transferred to the Lithuanian Police Forensic Science Center (hereinafter, LPFSC) in April 2011. Also another officer from the Toolmark section of the LPFSC was moved therein to become a polygraph examiner. This was how two officers started a full-scale polygraph programme within police in October 2011. As any beginning, this was a challenging task. First, examinations had to be conducted by polygraph examiners with little practical experience. Secondly, every step, every proposal for polygraph development had to be forced, and required convincing the supervisors. The polygraph examiners in the LPFSC quickly realised that only aggressive promoting of polygraph with the simultaneous coaching of supervisors, prosecutors, investigators and judges can generate sufficient workload, and keep them on the surface.

The efforts paid back: the untrained officer was sent to the polygraph school accredited by the American Polygraph Association in 2013 and successfully completed the basic polygraph examiner course. The more experienced polygraph examiner renewed his membership at the American Polygraph Association (hereinafter, APA), and the newly trained officer started his membership at the APA too. The LPFSC supervisors started sending LPFSC examiners to the APA annual seminars. Training and coaching of police investigators, and prosecutors and judges significantly increased the number of polygraph examinations: from 15 polygraph examinations in 2012 to 52 polygraph examinations in 2018. In almost 12 years, the LPFSC polygraph examiners conducted around 50 training sessions in all Lithuanian county police stations, all regional prosecutors' offices, the National Court Administration, all regional courts, and also in such specialised agencies as the Special Investigation Service, the Custom Criminal Service, and many others.

The use of the Russian-made polygraph Diana was discontinued in the LPFSC early in 2014, when the LPFSC upgraded the old Lafayette LX 3000 obtained from the special police agency to the version latest at that time, the LX 5000.

A new chapter in the development of polygraph examinations in Lithuania started around 2014 when the Police Immunity Board hired two civil servants and trained them to be polygraph examiners. They started conducting polygraph examinations for internal affairs of the police. In 2015–17, the Lithuanian police had four examiners operating the polygraphs. However, in the next two years three of those four polygraph examiners left the service, and the police were left with only one polygraph examiner: the author of this article. That polygraph examiner had to cover all crime investigation cases, all internal cases in the police and some other

agencies, and the polygraph examinations requested by the courts. Needless to say, such broad area required covering by more than one polygraph examiner, but the number was never increased.

Beginning with early 2023, the last polygraph examiner in LPFSC and the only in whole police moved to another agency and since then neither police nor any crime investigating authority has an option to request a polygraph examination. At the time of writing this essay, that is in October 2024, polygraph examiners in Lithuania are only employed by Military intelligence, SSD, and GSS, where they only conduct polygraph examinations for the internal purposes of those agencies.

Legal Framework

Prior to 2000, Lithuania had no dedicated polygraph legislation save for few lines on polygraph in the Law of the Republic of Lithuania on the Organisation of the National Defence System and Military Service. Its Article 26 section 4 read "In order to ensure protection of the state and service secrets and/or to evaluate information provided by soldiers, polygraph can be used, yet only with the written consent from the soldier. A soldier refusing to be tested by polygraph cannot perform duties involving state or service secrets". The same law contained an almost identical regulation on civil servants in the National Defence system (Article 72 section 4).[*]

Extensive preparations for the drafting of the Law on Using the Polygraph took place in 1998–2000, and the law was adopted in August 2000.[**]

The author of this article possesses institutional memory on peculiarities of preparing the law. There were plentiful debates during the preparation phase on whether, how, and to what extent polygraph should be regulated in Lithuania. At some of the final stages, the draft of the law was entitled "The Law on Using the Polygraph in State Service", yet later it lost the ending of the title and became "The Law on Using the Polygraph". From the perspective of legal technique, the title "The Law on Using the Polygraph in State Service" would correspond to the spirit and content of the Law more precisely than "The Law on Using the Polygraph".

[*] Lietuvos Respublikos krašto apsaugos sistemos organizavimo ir karo tarnybos įstatymas, https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.56646/MjJtVrhhiF (accessed: 12.12.2024).

[**] Lietuvos Respublikos poligrafo naudojimo įstatymas, https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.107745 (accessed: 12.12.2024).

Moreover, it is quite likely that, having a cursory look at the Law, every lawyer would deem that the Law on Using the Polygraph was too descriptive, too complex, and too unclear. This was probably caused by the long drafting and adoption phase, in which the ultimate goal of the Law (precision, conciseness, clarity, regulation of crucial areas) was lost.

However, taking aside the above-mentioned criticism, the Law on Using the Polygraph in the Republic of Lithuania of 29 August 2000 was probably one of the first (if not the very first) in Europe if not in the world to regulate the use of polygraph examinations by a legal act of the highest rank.

Another advantage of the law dedicated to polygraph was that it enabled ministries and other institutions to run their polygraph programmes by creating special polygraph units and starting polygraph examinations. At the peak of polygraph popularity, Lithuania had four institutions with polygraph examination capabilities. Those institutions were Military Intelligence, SSD, GSD (GSS), and the police under the umbrella of LPFSC. Currently, only the Military Intelligence, GSD, and GSS operate polygraph programmes.

However, even though mandated and ordered by the Law on Using the Polygraph (hereinafter, Polygraph Law), two institutions ignored the Law and never developed own polygraph capabilities. One of them was the institution delegated by the Ministry of Finance (most probably – the Lithuanian Customs), the other – the Special Investigation Service specifically dedicated to fight corruption.

The Polygraph Law regulated and regulates the main aspects of polygraph usage: the extent, the institutions, the cases when polygraph may be used, what persons may be tested, how the test procedure must be performed, what the specific requirements for the polygraph examiner are, under what conditions the examinee is considered disqualified from testing, what the consequences of testing outcomes are, and how the information collected during polygraph examination may be used.

The Polygraph Law was adopted with the intention to regulate all polygraph related activities in Lithuania. This was clearly stated in its Article 1 "Purpose of the Law": This law establishes the procedures of using of the polygraph, rights and obligations of the institutions using the polygraph, rights and obligations of polygraph examiners; rights and obligations of the subjects."

Article 3 section 2 stated: "Polygraph examination is forbidden except for institutions using polygraph as permitted by Polygraph Law."

When one considers other restrictions on who can be tested set by Article 4 section 2 (only civil servants, officers and soldiers, and candidates for the above-mentioned positions) and the extent of polygraph examinations (mainly for the purposes of administering classified information), the use of polygraph for criminal investigations was literally banned. The Polygraph Law also ordered to adopt the resolution on implementing the Polygraph Law, and similarly several other laws were amended with the polygraph regulations.

This resolution, being the Lithuanian Government's resolution on adopting the "Polygraph Examination Rules and the Polygraph Examination Authorisation Form" (hereinafter, Polygraph Resolution) was passed on 12 July 2002.[*] The above-mentioned resolution regulated in detail the polygraph procedure: requirements concerning polygraph devices, daily workload for polygraph examiners, requirement for polygraph examiner to issue written opinions. It also awarded rights to the subjects: to be informed in advance about assigned polygraph examination, to be informed about the purpose and procedure of the examination, and about the fact that polygraph examination is CCTVed and recorded. The subject also had to be informed about their rights.

The resolution also regulated the stages of polygraph examination and the steps that have to be completed in each of the stages. The Polygraph Resolution also set the number of final polygraph conclusions to three: negative, when polygraph data indicate that the subject is deceptive; positive, when polygraph data indicates that the subject is truthful; and inconclusive, when according to polygraph data it is not possible to decide whether the subject is truthful or deceptive. The author believes that the law introduced an interesting way of delivering the final opinions. It is obvious that such a solution is more suitable for screening and preemployment purposes, as a practice commonly accepted in Lithuania in the case of polygraph examinations in criminal investigations is delivering expert opinions about outcomes of each test.

Moreover, the Polygraph Resolution regulated the procedure for repetitive polygraph examinations, e.g. when the subject has the right to be retested. According to the Polygraph law this is only possible in another institution. Finally, the law defined the form for the authorisation to conduct polygraph examinations.

[*] Dėl Tyrimo poligrafu taisyklių ir Leidimo atlikti tyrimus poligrafu formos patvirtinimo [Text in Lithuanian only], https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.171266?jfwid=q8i88lsjl (accessed: 12.12.2024).

The Polygraph Law has been in operation for twenty-five years, and has only received five-minute amendments. The main changes have been:

1. Clarifying and broadening the definition of the polygraph.
2. Enabling one institution conducting polygraph examinations, when due to structural changes the GSS became independent from the MoI.
3. The category of the eligible subjects was broadened as the intelligence (counter-intelligence) and criminal intelligence sources were added.
4. Scope of polygraph examinations was revised to adjust it to the new legal terms.
5. The assigning procedure for polygraph examination was slightly revised.
6. The requirements for polygraph examiners were substantially revised, which included removing the requirement for polygraph licence and Top Secret security clearance, and addition of the requirement to complete 400 hours in a recognised polygraph training school.
7. Consequences for the negative outcome and for the refusal to undergo testing were slightly revised. More strong verbs were added (It should be noted that cancellation or not issuing the security clearance due to negative conclusion or refusal to be tested still remained not automatic. It also takes into account all information.)

It should be noted that Polygraph Resolution was amended on 1 July 2015 when a new version of the Polygraph Resolution was adopted.*

The new Polygraph Resolution was well arranged in systematic approach and followed legal logic. It consists of four sections: General Provisions, Requirements for Polygraph Examination, Polygraph Examination Procedure, and Final Provisions.

The law defines all stages of the polygraph examination (preparation, pre-test interview, testing, post-test interview, data evaluation and writing the conclusions) and states what has to be done in each of the stages, specifying also the requirement for audio or audio-and-video recording of the examination. It also sets the timing for polygraph examinations and limits how many polygraph examinations (not more than two) can be conducted in a day. It also declares that, beside the examiner and the subject, only an interpreter may be present on the premises where the examination is conducted. It also establishes the procedure for testing polygraph devices, requiring their operation to comply with manufacturer recommendations and speci-

* Dėl Lietuvos Respublikos Vyriausybės 2002 m. liepos 12 d. nutarimo Nr. 1131 „Dėl Tyrimo poligrafu taisyklių ir leidimo atlikti tyrimus poligrafu formos patvirtinimo“ pakeitimo, https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/a9845ee124a011e58a4198cd62929b7a?jfwid=-11aplrcenl (accessed: 12.12.2024).

fying minimum recording requirements as two channels for the pneumograph, one for electrodermal activity, one for cardiac activity, and one being the movement sensor (seat). It also sets the criteria for polygraph tests (they should be validated by at least 2 independent studies in peer reviewed journals, have at least 60 % of accuracy in screening tests, and at least 80% accuracy in specific issue testing).

The novelty introduced in the Polygraph Resolution of 2015 was the Annex with the List of accepted polygraph techniques, which included 14 validated control question techniques and the Relevant – Irrelevant Question Technique (RIT) for screening purposes only. From the current perspective, it is obvious that RI technique may not be used in polygraph examinations due to low accuracy.

Such are the foundations of the Lithuanian legal framework for polygraph examinations. The above considerations do not however cover all the uses of polygraph in criminal investigation and in other areas where polygraph can be used. The author believes that the use of the polygraph in Lithuania should be extended to all possible areas in order to take maximum advantage of this scientifically proven method of detecting deception. Therefore, the Polygraph Law should be substantially revised and the whole legal framework changed to permit the use of polygraph in all the areas where it is needed, private sector included.

Practice

As indicated in the history section of this article, the first polygraph examinations in Lithuania started in 1992 or 1993. From 1992 to the beginning of 1997, around 30 polygraph examinations were conducted in Lithuania, mostly in murder cases (Kraujalis 1997:74) in the GSD and some more for GSD's internal purposes. It is rather difficult to determine how many polygraph examinations were conducted later.

Information on the quantity of polygraph examinations conducted by the Military Intelligence (since 1999) and the SSD (since c. 2009) are not available for secrecy reasons. Those are agencies that should perform polygraph examinations extensively for preemployment, vetting, and counterintelligence purposes.

The data available to the author concerns polygraph examinations conducted only in the LPFSC in 2011–22. There are no exact statistical data for the period, yet around 450 polygraph examinations (100%) were probably conducted in various, mostly criminal, cases.

Some readers may be confused reading that the vast majority of polygraph examinations at the LPFSC were conducted in criminal cases, while Polygraph Law does not allow using polygraph for criminal investigations, but that is not a mistake. These polygraph examinations were conducted not on the grounds of Polygraph Law but of the articles of the Criminal Procedure Code regulating examinations related to criminal investigation. In 2011–22, around 90% of polygraph examinations were conducted in criminal cases, and around 10% in internal police investigations, upon requests of other agencies, and, albeit few, upon requests of natural persons.

More than 50% of the subjects were suspects or accused, fewer than 30% were witnesses, around 10% of all the subjects were victims and around 10% were private and accidental persons having no status in criminal proceedings. The composition of the subjects has not changed substantially and remained almost identical throughout the above-mentioned period.

The largest proportion of polygraph examinations (approximately one third) was conducted in homicide cases. Combined, other violent crimes—such as robbery, physical assault, grievous bodily harm, and theft—accounted for roughly another third. Fraud, corruption, and other "white-collar crimes", as well as domestic violence, each constituted only a few percent of the cases. The remaining 12% of polygraph examinations were conducted in cases involving missing persons, workplace accidents, drug offenses, manslaughter, arson, disobedience of lawful police orders, private disputes, and internal investigations of police and other institutional staff.

In courts of first instance, polygraph examinations were typically accepted as evidence in nearly 80% of cases. In appellate courts, the acceptance rate was below 50%, similar to that of the Supreme Court of Lithuania. The Supreme Court accepted polygraph examination results as evidence in almost 50% of the cases where such evidence was submitted.

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Lithuanian Act on the Use of Polygraph Examinations

The Republic of Lithuania is one of few European countries where the use of polygraph examinations is governed by a separate act of law.

Believing that both the very fact of statutory regulation of polygraph examinations, and the form and specific provisions of this act may be of interest to our readers, we have decided to publish its full text in English. Naturally, the original language of the act is Lithuanian.

The Editors

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REPUBLIC OF LITHUANIA

LAW

ON THE USE OF THE POLYGRAPH

29 August 2000 No VIII-1906

(As last mended on 19 May 2016 No XII-2377)

Vilnius

Article 1. Purpose of the Law

This Law shall establish the procedure for the use of the polygraph and the rights and duties of entities conducting a polygraph examination, examiners and persons subject to a polygraph examination.

Article 2. Definitions

1. **Polygraph** shall mean an instrument conforming to the requirements regarding electromagnetic compatibility of equipment and safety of electrotechnical products stipulated in legal acts which records changes in a person's respiration, cardiovascular and electrodermal activity and other physiological changes occurring in the person's body in the course of an examination with the use of this instrument and on which the evaluation of statements by the person subject to the examination with this instrument is based.

2. **Polygraph examination** (hereinafter: the 'examination') shall mean a complex psychophysiological examination for the evaluation of truthfulness of a person's statements using the polygraph.

3. **Examiner** shall mean a person meeting the requirements set out in this Law and conducting examinations in the cases and according to the procedure laid down in this Law.

4. **Entities conducting an examination** shall mean state institutions authorised to conduct a polygraph examination under this Law.

5. *Repealed as of 1 October 2016.*

Article 3. Legal grounds for the activities of entities conducting an examination

1. In their activities, entities conducting an examination shall act in compliance with the Constitution of the Republic of Lithuania, this Law and other laws as well as other legal acts adopted by the Seimas, international treaties of the Republic of Lithuania, decrees of the President of the Republic, Government resolutions and other legal acts.

2. A polygraph examination shall be prohibited with the exception of the entities conducting an examination provided for by this Law.

Article 4. Entities conducting an examination and subjects of an examination

1. Entities conducting an examination shall be the following state institutions:

1) institutions authorised by the Ministry of the Interior;

2) in the national defence system – the Second Investigation Department under the Ministry of National Defence;

3) the State Security Department;

4) an institution authorised by the Ministry of Finance;

5) the Special Investigation Service.

2. In the cases specified in Article 5(2) of this Law, entities conducting an examination shall conduct a polygraph examination of persons whose activities are related to the use of, protection of or familiarisation with classified information:

1) civil servants from respective institutions, employees working under employment contracts, officials and servicemen, persons selected for service or work at these institutions as well as covert participants of criminal intelligence and covert human intelligence sources;

2) civil servants, employees working under employment contracts, officials and servicemen, persons selected for civil service or work as well as covert participants of criminal intelligence where this is requested by other state institutions of the Republic of Lithuania.

Article 5. Objective and cases of an examination

1. The objective of an examination shall be to verify the reliability of the persons referred to in Article 4(2) of this Law and information provided by them or collected by respective state institutions relating to the persons specified in this Article and their environment.

2. The persons referred to in Article 4(2) of this Law may be subject to an examination in the following cases:

1) when deciding on the issuance or withdrawal of an authorisation to handle or familiarise with classified information, where there are grounds for believing that the person concealed or submitted false biographical facts or other information about himself and his environment;

2) when conducting counterintelligence activities;

3) when evaluating the reliability of covert participants of criminal intelligence and/or information provided by them;

4) when evaluating the reliability of officials performing the functions of ensuring the protection of protected persons, also when evaluating whether there are any reasons likely to pose a threat to the security of protected persons;

5) when investigating criminal acts and preventing them or investigating other offences where such acts and other offences are related to a breach of the established

procedure for handling of or familiarisation with classified information or the use and storage of such information;

6) where there are grounds for believing that unlawful influence has been exerted on a person which is of relevance to the established procedure for handling of or familiarisation with classified information and the use and storage of such information;

7) upon the person's application to conduct a re-examination.

Article 6. Restrictions of an examination

1. An examination shall not be conducted or shall be postponed where:

1) a person is under the influence of alcohol or intoxicated with narcotic, toxic or psychotropic substances or has used medicines likely to affect the examination;

2) a person suffers from a mental illness or due to a pathological condition is incapable of understanding the essence of his actions or control them;

3) a person is temporarily incapable of working due to his health condition;

4) it is established that the mental, psychological, physiological or physical condition of the person subject to the examination will impede the quality of the examination.

2. The condition of the person subject to the examination shall be evaluated by the person conducting the examination and, where necessary, also by a health care professional.

Article 7. Procedure for conducting an examination

1. A decision on conducting an examination shall, taking account of the objective and cases of an examination specified in Article 5 of this Law, be adopted by the head of an entity conducting the examination. The decision to conduct the examination shall indicate: the name and surname of the person who is to undergo an examination and the objective and grounds for the examination (the case specified in Article 5(2) of this Law). An examiner or another person authorised by the head of an entity conducting the examination shall familiarise the person who is to undergo

the examination with the decision to conduct the examination against his signature and shall also fix the time and venue for the examination.

2. An application to conduct an examination in respect of the persons referred to in Article 4(2)(2) of this Law and material about the person subject to the examination shall be submitted to the head of an entity conducting the examination by the head of or a person authorised by him from the state institution at which the person subject to the examination serves, works or has been selected for service or work. The head of the entity conducting the examination shall, not later than within five working days from receipt of the application to conduct the examination, process the application and inform the applicant about the adopted decision in writing. In the case of a decision to not conduct an examination, substantiated reasons for such a decision shall be provided.

3. An examination shall be conducted not earlier than two working days after the person who is to undergo the examination is familiarised with the decision to conduct the examination, and upon consent of the person subject to the examination, the examination may be conducted immediately.

4. A conclusion regarding a polygraph examination of the person referred to in Article 4(2)(2) of this Law shall be submitted to the person who lodged the application to conduct the polygraph examination.

5. An examination shall be conducted where the person subject to the examination expresses his consent in writing.

6. The applicable criteria for examination methodologies, the list thereof and rules for conducting an examination shall be established by the Government of the Republic of Lithuania.

7. The applicable examination methodologies shall, in the course of an examination, be selected from the list specified in paragraph 6 of this Article by an examiner conducting the examination.

Article 8. Legal status of an examiner

1. An examiner must meet the following requirements:

1) be a citizen of the Republic of Lithuania;

2) hold a university degree;

3) hold the evidence of qualifications attesting to the completion of integrated specialised polygraph examination courses of at least 400 hours, including the duration of practical training attended, at training institutions of the Member States of the European Union or members of the North Atlantic Treaty Organisation;

4) hold an authorisation to handle or familiarise with classified information.

2. An examiner must:

1) perform his duties in an impartial manner;

2) respect the rights, freedoms and dignity of a person subject to an examination;

3) observe service ethics;

4) comply with the set procedure for handling the polygraph;

5) use monitoring, audio and/or video recording equipment in the course of an examination;

6) store information comprising a state or official secret;

7) base the conclusion regarding the person subject to an examination only on the data obtained in the course of the examination;

8) inform the person to undergo an examination about the examination procedure.

3. An examiner shall have the right:

1) to obtain all the necessary information about the person subject to an examination prior to the beginning of the scheduled examination;

2) to refuse to conduct an examination where he has grounds for believing that he will be unable to issue an impartial conclusion or in the event of at least one of the cases provided for in Article 6(1) of this Law;

3) to discontinue an examination where the mental, psychological or physical condition of the person subject to the examination impedes the quality of the examination.

4. In the cases provided for in point 3 of paragraph 3 of this Article, an examiner shall forthwith inform the head of an entity conducting the examination about the

discontinuation of the examination, stating the reasons for it, and the latter shall adopt a decision to conduct a re-examination or to terminate the examination. The decision of the head of an entity conducting the examination to conduct the re-examination in respect of the persons specified in Article 4(2)(2) of this Law or to terminate the examination must be coordinated with the person who lodged the application to conduct the examination.

5. An examiner who has drawn up a false conclusion of the examination shall be held liable in accordance with the procedure established by law.

Article 9. Rights of a person subject to a polygraph examination

1. A person subject to a polygraph examination shall have the right:

1) to refuse to continue the examination at any time during the examination or to take a break;

2) to be aware that the examination is recorded using monitoring, audio and/or video recording equipment;

3) to be familiarised with the course of the examination, the equipment used and the examination procedure;

4) to receive the final conclusion of the examination.

2. A person who was subject to a polygraph examination may, within one month from familiarisation with the final conclusion of the examination, refer to another entity conducting an examination with an application to conduct a re-examination. A final decision on such an application shall be adopted by the head of the entity conducting the examination with whom the application to conduct the re-examination was lodged.

Article 10. Consequences of an examination or refusal to undergo an examination

The conclusion of an examination shall be used as additional information describing the person subject to the examination and his environment. Where the conclusion of a person's examination is negative also where a person refuses to undergo a polygraph examination and having regard to all the available information about

the person subject to the examination and his environment, an authorisation to handle or familiarise with classified information shall not be issued to him or his current authorisation shall be withdrawn in the cases and in accordance with the procedure established by the Law of the Republic of Lithuania on State Secrets and Official Secrets.

Article 11. Use and protection of information obtained in the course of an examination

1. It shall be prohibited to use information obtained in the course of a polygraph examination for the purposes other than those that were to be attained, except for the cases where information is obtained about a crime attempted, planned or committed.

2. The head of an entity conducting an examination must, in accordance with the procedure laid down by laws and other legal acts, ensure the protection of information comprising a state or official secret.

3. Audio and/or video recordings made in the course of an examination shall be stored in accordance with the procedure established by the Law on State Secrets and Official Secrets.

Article 12. Entry into force of the Law

This Law shall enter into force as of 1 November 2000.

Article 13. Proposal to the Government

By 1 November 2000, the Government shall approve legal acts required for the implementation of this Law.

I promulgate this Law passed by the Seimas of the Republic of Lithuania.

PRESIDENT OF THE REPUBLIC VALDAS ADAMKUS

Report

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The Fifty-Eighth Annual Seminar of the American Polygraph Association

(New Orlean, Louisiana, August 26–30, 2024)

The fifty-eighth annual seminar of the American Polygraph Association took place from 26th to 30th August in New Orleans, Louisiana, hosted at the New Orleans Hilton Riverside Hotel.

The seminar brought together over 700 polygraph experts from around the globe, primarily from the United States and Latin America, but also attracting specialists from nearly all continents. Among European nations, the largest delegations came from Ukraine, the Czech Republic, and Poland. The growing representation from Latin America has effectively made Spanish the second language of the seminar alongside English, as the polygraph enjoys significant popularity in the region, with numerous American polygraph training schools accredited by the American Polygraph Association having set up branches across Latin America.

As per tradition, the seminar marked a change in the presidency of the American Polygraph Association. The President-Elect assumes the presidency while the outgoing President transitions to the role of Past-President and remains involved in the association's leadership. This year, Chip Morgan took on the role of President, succeeding Donnie W. Dutton.

As every year, the seminar featured a wide range of presentations covering topics from the fundamentals of polygraph examinations—including best practices in

pre-employment screening—to psychology, interrogation tactics, and strictly polygraph-related methods.

One highlight was an in-depth discussion of a new screening technique, the Single-Issue Screening Test (SIST). According to presenter Pat O'Burke, this method boasts a high diagnostic accuracy of over ninety percent, placing it on par with diagnostic tests such as the Utah Zone Comparison Test and the Federal Zone Comparison Test.

Another topic of debate concerned the merit of re-certifying polygraph experts, a practice that requires specialists to renew their certification periodically. Representatives from the National Centres for Credibility Assessment in the US and Canada raised this issue. Currently, if an expert completes an accredited basic course, pays annual fees, and attends a certified training programme of at least thirty hours every two years, their certification is automatically renewed. However, the presenters argued that ongoing advancements in science and updates to standards render the current certification process insufficient. They proposed periodic re-certification every few years, with a doubling of required training hours between certifications. This issue is also pertinent in Poland, extending beyond polygraph experts to court experts more generally.

A particularly engaging presentation, *To Node or Not to Node: Comparing Human and Automated Scoring of Pneumograph and Plethysmograph Data,* was delivered by Canadian experts Kristine Smith and Yolanda Romanic. They addressed diagnostic characteristics in the Pneumograph (Pneumo) and Plethysmograph (PLE) channels, noting the issue of reaction latency in the PLE channel.

Also noteworthy was *Why Innocent People Fail & Why Guilty People Pass,* presented by Donald Krapohl and Russ Warner, which examined the causes of false positives and false negatives in polygraph results. The presentation also explored correlations between polygraph channels and their alignment with deception criteria.

A significant highlight was the presentation of the *EyeDetect+* device, an ocular graph that records eye movements and pupil response, which could serve as an additional channel for polygraph testing. According to its creators, EyeDetect+ provides high diagnostic validity and reliability, ranging from eighty-nine to ninety-one percent. Notably, this device and its deception detection technology were first featured in *European Polygraph* in 2016.

The next annual APA seminar is scheduled to be held in San Diego, California.

Michał Widacki

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The Basic Information for Authors

To publication will be accepts unpublished research papers as well as review article, case reports, book reviews and reports connected with polygraph examinations.

Submitted manuscripts must be written in English.

All papers are assessed by referees (usually from Editorial Board), and after a positive opinion are published.

Texts for publication should be submitted in the form of normalized printout (1800 characters per page). Use ScholarOne Manuscripts (for online submission and manuscript tracking.

To submit your manuscript, you need the following files:

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- A main document file with abstract, keywords, main text and references, which should be kept anonymous if the journal you are submitting to uses double-blind peer review;
- Figure files;
- Table files;
- Any extra files such as supplemental material or biographical notes.

The total length of research papers and review article should not exceed 12 pages, case reports – 6 pages, and other texts (book review, report) – 5 pages.

The first page of paper should contain: the title, the full name of the author (authors), the name of institution where the paper was written, the town and country.

Figures should be submitted both in printed form (laser print, the best) and electronic form.

Tables should be numbered in Roman numerals and figures in Arabic ones.

Figures, tables, titles of figures and titles of tables should be included on a separate page. The places in the text where they are to be included should be indicated.

The references should be arranged in the alphabetical order according to the surnames of the authors.

The references should be after the text.

Each reference should include: the surname (surnames) of the author (authors), the first letter of author's first name, the title of the book, year and place of the publication, the name of publisher, or the title of the paper, the full title of the journal, the year, the volume, the number and the first page of the paper.

For example (in references):

Reid, J., Inbau, F. (1966), *Truth and Deception: the Polygraph ("Lie-detector") Techniques*, Baltimore: Williams & Wilkins.

Abrams, S. (1973), Polygraph Validity and Reliability – a Review, *Journal of Forensic Sciences*, 18, 4, 313.

and (Reid, Inbau, 1966), (Abrams, 1973) inside text.

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1. All papers sent to *European Polygraph* by their respective authors undergo preliminary assessment by the Editor-in-Chief.

2. The initial assessment results in the decision whether to send the work for an independent review or return it to the author with the information that it will be not published.

3. Two independent reviewers for "internal reviews" are appointed by the Editor-in-Chief or by the Deputy Editor following consultation with the Editor-in-Chief.

4. The following cannot be independent reviewers: Editor-in-Chief, Deputy Editor-in-Chief, employees of Andrzej Frycz Modrzewski Krakow University, and people with papers published in the issue containing the reviewed paper.

5. The internal review should answer the question whether the reviewed paper is fit for printing and whether it requires any amendments, and if it does, state what they are, and must be in written form, and conclude in an unequivocal verdict concerning publication or rejection of an article.

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Articles submitted to *European Polygraph* in 2024 were subjected to peer review by:

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James Matte

Tuvya T. Amsel

Michał Widacki