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## **National Policing Position Statement:**

### **The Use of the Polygraph in Investigations**

**National Investigative Interviewing**

**Strategic Steering Group (NIISSG)**

**May 2014**

## **Introduction**

The purpose of this position statement is to strongly discourage the use of the polygraph during criminal investigations. It is not intended to detract in any way from the use of the polygraph in post-conviction sex offender testing (as reported, for example in Grubin 2008).

The arguments set out in this position statement firmly focus on the practical implications of the use of the polygraph during investigations. This document does not deal with the academic arguments for or against the use of the polygraph (see, for example, National Research Council, 2003 and British Psychological Society, 2004). Suffice to say that its use as a method of detecting deceit is at best a controversial one among psychologists.

## **The National Policing Position**

The polygraph should not be used in criminal investigations in England and Wales because it could have adverse consequences for the investigative interview, the wider investigation and the trial process.

### *The Polygraph and the Investigative Interview*

The British Psychological Society's 2004 review of the polygraph notes that:

*While in certain settings polygraphic lie detection may produce results better than chance, it is a far from perfect procedure. Anybody who attempts to persuade others (e.g. a polygraph examiner testing a police suspect) that polygraphic lie detection is an error-free procedure (by, for example, using a 'stimulation procedure' – Bull, 1988; National Research Council, 2003) will be attempting to deceive. To claim otherwise would be inconsistent, for example, with the Code of Conduct for psychologists promulgated by the British Psychological Society, as would lying about the outcome of a polygraph test. Indeed, Chartered Psychologists should consider informing participants of the known error rates concerning the procedures they plan to administer.*

In these circumstances it could equally be argued that if polygraph examiners and/or interviewers either explicitly or implicitly misrepresent any material

obtained by using the polygraph it could amount to over-stating the strength of the evidence against the suspect; this could result in an application being made to rule the interview as inadmissible in accordance with the principles established in the R v Heron 1993 ruling (unpublished).

### *The Polygraph and the Wider Investigation*

The use of the polygraph during an investigation must be revealed to the CPS and will probably be disclosed to the defence in most cases. In these circumstances it is possible that the use of the polygraph may be used to discredit the investigation, irrespective of the outcome of the polygraphic examination, as follows:

- Where a witness or suspect has been eliminated from the enquiry either directly by the use of the polygraph or on the basis of lines of enquiry generated following polygraphic examination it could be argued that the investigation was flawed because far too much reliance was placed on such a controversial and potentially unreliable/invalid technique;
- Where a suspect has been implicated as a result of polygraphic examination it could be argued that the lines of enquiry that followed were heavily influenced by 'confirmation bias' based on the use of flawed technology rather than being the product of an 'investigative mindset' as advocated in *Practice Advice on Core Investigative Doctrine* (ACPO 2012);
- Where a victim of crime is thought to have falsified or embellished an account as a result of polygraphic examination it would surely be a mistake to cease making enquiries solely on that basis. That having been said, where enquiries continue following the use of the polygraph in these circumstances it may result in the investigation being open to challenge on the basis of confirmation bias.

### *The Polygraph and the Trial*

Any reading of the academic literature suggests that there are a number of well-qualified psychological researchers in the field who have considerable doubts about the use of the polygraph as a means of detecting deceit. It seems reasonable to assume that some of these experts would be willing to challenge its use in the courts. Given the concerns raised in the literature and the calibre

of the experts involved it is very unlikely that any challenge to the use of the polygraph could be comprehensively rebutted.

## **Conclusion**

The use of the polygraph during investigations is discouraged because it is a controversial technique that may well leave the integrity of the interview and the investigation unnecessarily exposed to challenge. In these circumstances it could be argued that at best the use of the polygraph will not get the investigation any further forward and at worse it could discredit it leading to a situation in which victims of crime are needlessly denied justice.

Detecting deceit is not an easy task. There are no typical cues to deceit, either through non-verbal behaviour, verbal behaviour, or physiology that can be used within the UK criminal justice system to accurately and consistently discriminate between lies and truth. Consequently, the National Policing Investigative Interviewing Group and the National Policing Homicide Working Group actively discourages the use of detecting deceit methods until further quality field-based research is conducted to validate their use within an investigative context and in their application to security screening. It is a matter for individual Forces to decide which methods they use in areas of police business that fall outside the investigative context or security screening, provided that the information derived from their use does not form part of the evidential chain. If they are to be applied and officers are to be trained in their use it is vital that their limitations are recognised so that the appropriate weight can be placed on their results.

## **References**

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- Grubin D. (2008) *The Case for Polygraph Testing of Sex Offenders*, *Legal and Criminological Psychology* (2008), Vol 13, PP 177–189

National Research Council (2003) *The Polygraph and Lie Detection*, Committee to Review the Scientific Evidence on the Polygraph, Washington, DC, The National Academic Press

### **Acknowledgement**

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