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Use of Polygraphy  
in Supervision & Treatment:  
*Effective? Essential? Ethical?*

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## Objectives

- ❖ Participants will critically review the:
  - ❖ current use of polygraphy in sexual violence prevention.
  - ❖ literature underscoring the use of polygraphy with clients who have sexually offended, as well as emerging research highlighting the therapeutic alliance.
  - ❖ implications of engaging in practices that have limited or no empirical basis.

## Where we're coming from...

- ❖ We come in peace!
- ❖ Our field has a long history of false assumptions
  - ❖ (We've fallen prey to them, too)
- ❖ We need solid research
- ❖ Human lives are in the balance
- ❖ We need to do what works
  - Consider all angles
  - Be data-driven

## What's our goal?

- ❖ Stopping the behavior?
- ❖ Justice for the victim?
- ❖ Preventing reoffense?
- ❖ Better lives for all?



## History

- ❖ Cook (2011) reports that the polygraph was used to monitor "sexual delinquents" as early as 1928, but that general usage started to expand in the 1970s
- ❖ Polygraph evaluations with SOs are routine throughout the US but, curiously, not often elsewhere

## What do we need to know?

According to Grubin (2002), polygraphy can be used to assess:

- ❖ the number and types of victims
- ❖ the types of offenses committed
- ❖ deviant fantasies and behaviors

## Denial and Minimization

- ❖ Many sexual offenders either deny or minimize their offenses
- ❖ Theoretically, these processes serve a number of possible purposes:
  - Escape accountability
  - Manage shame and guilt

## Not associated with risk

- ❖ Denial/disclosure
- ❖ Empathy
- ❖ Psychological maladjustment
- ❖ Many personality features
- ❖ Most biographical features



## Is more information better information?

- ❖ There is no denying that offenders subject to polygraph evaluation disclose more data.
- ❖ Does understanding, identifying, and managing risk factors require an exact victim count?

## What is disclosure?

- ❖ A process?
- ❖ An event?
- ❖ Can it be encouraged, forced... or nudged?
- ❖ We can force clients to disclose, but can we force them to become honest people?
- ❖ How do people view themselves and authorities after they disclose? Or are compelled to disclose?

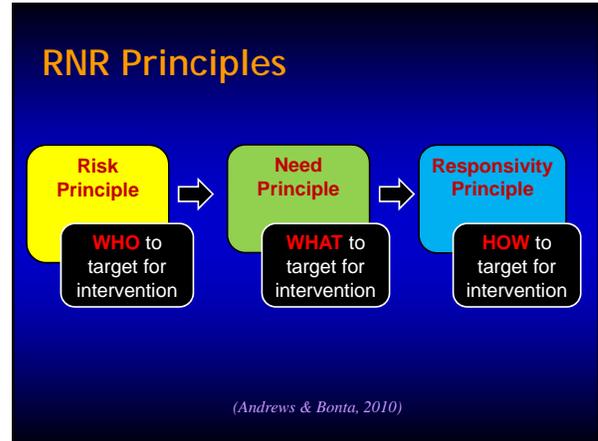
## Is disclosure the same as honesty?

- ❖ Honesty is an appropriate goal of treatment
- ❖ Is compelled disclosure the same thing as honesty?
- ❖ Do some clients fabricate in order to be viewed as making progress?
- ❖ Are there times when being less than truthful is actually socially acceptable?

## Finally...

- ❖ Do we have the right to compel disclosure?
- ❖ At what point does forcing someone become an abuse dynamic itself?
- ❖ Despite our efforts, is our message "you must... or else?"

# Polygraphy in Supervision & Treatment



## Agents of Change

As clinicians and other concerned practitioners, our goal is to assist all residents in the development of a **balanced, self-determined lifestyle**. Contemporary research in our field suggests that learning to live a "good life" is inconsistent with antisocial behavior.

- ## Containment
1. To be supervised under general and special conditions of probation or parole
  2. To participate in sex offender specific treatment, and
  3. To undergo polygraph examinations during the evaluation process and periodically throughout the supervision period.

- ## Points to Consider
- ❖ Sexual offender treatment has a long history of confrontational and punitive approaches
  - ❖ Studies also show that confrontational style results in poorer treatment outcome (Marshall, 2005)
  - ❖ Research shows that failure to complete treatment not only predicts re-offense, but can elevate level of risk (Hanson & Morton-Bourgon, 2004)
  - ❖ Can some program attributes be both implicitly confrontational and pro-noncompletion - leading to decreased overall treatment responsiveness?

- ## Features that Enhance and Reduce Treatment Effectiveness
- |  |   |
|--|---|
| <b>Features that Enhance Treatment Effectiveness</b> | <b>Features that Reduce Treatment Effectiveness</b> |
| ❖ Empathy  | ❖ Aggressive Confrontation                          |
| ❖ Warmth   | ❖ Rejection   |
| ❖ Respect  | ❖ Manipulative/Lack of boundaries                   |
| ❖ Genuineness  | ❖ Lack of interest                                  |
| ❖ Supportive   | ❖ Critical  |
| ❖ Directive  | ❖ Sarcastic   |
| ❖ Flexible   | ❖ Hostile/Angry/Rigid                               |
| ❖ Encourages Participation                           | ❖ Cold/Unresponsive                                 |
| ❖ Rewarding  | ❖ Dishonest   |
| ❖ Attentive  | ❖ Judgmental  |
| ❖ Trustworthy  | ❖ Authoritarian                                     |
| ❖ Use of humor                                       | ❖ Defensive   |
| ❖ Emotionally Responsive                             | ❖ Nervous/Uncomfortable                             |

### Marshall, 2005

- ❖ Warm
- ❖ Empathic
- ❖ Rewarding
- ❖ Directive



Problem: Many people think they have these qualities, but don't

### 1979: Edward S. Bordin

Therapeutic alliance:

- ❖ Agreement on relationship
- ❖ Agreement on goals
- ❖ Agreement on tasks
- ❖ (Norcross, 2002, would add client preferences)
- ❖ Over 1,100 studies have emphasized the importance of the alliance in psychotherapy since (Prescott & Miller, in press; Orinsky, 1994)



### Ask yourself

- ❖ How good is our therapeutic alliance with clients, really?
- ❖ How do you know?
- ❖ If a client fails to progress because we adopt a more intrusive approach, how would we explain this to future victims?

### Polygraphy & Juveniles

### What is treatment with juveniles?

- ❖ Holding accountable or teaching accountability?
- ❖ Explaining the past or building a future?
- ❖ Teaching respect for law and authority or teaching fear of it?

### Polygraphy & Youth

- ❖ Safer Society 2009 survey
  - Over 50% of the responding programs claim to use polygraphy with adolescents.
- ❖ Lack research to recommend use with adolescents beyond counting the number of victims (data to follow)

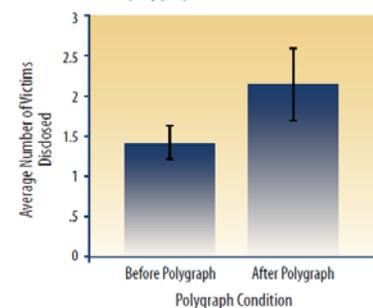
## Why not?

- ❖ Hindman & Peters, 2001:
  - ❖ Adolescents who had sexually abused and participated in polygraph examinations reported twice as many victims as those who didn't.
  - ❖ Touted "the power of the polygraph to elicit withheld information."
  - ❖ Findings were less dramatic than the results for adults, who reported five to six times as many victims as their adolescent counterparts.
  - ❖ Results similar to those of an earlier study by Emerick & Dutton, 1993.

## Van Arsdale et al., 2012

- ❖ Increase in the number of victims disclosed.
- ❖ Victims disclosed tended to be younger and male
- ❖ 1.42 victims before polygraph (average)
- ❖ 2.15 victims after polygraph (average)

Figure 1. Average number of victims disclosed before and after polygraph.



Note. Error bars represent 95% confidence intervals.

## Chaffin, 2010



- ❖ Suggested that we should only use polygraphy IF it can be proven to:
  - lead to better treatment outcomes,
  - prevent future victimization, and
  - protect abusers from the all the consequences of abusing again.
- ❖ However, such research is currently lacking.

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## Chaffin, 2010

- ❖ *Procedures to extract confessions seem to hold a particular sensitivity in the health care ethics literature, especially if the procedures are coercive or harsh. The World Medical Association (WMA; 1975) held that a breach could exist for health care providers by simply being present during harsh interrogations...*

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## Trauma (Ford et al., 2012)

- ❖ Approximately 90% of youth in juvenile detention facilities reported a history of exposure to at least one potentially traumatic event in two independent surveys of representative samples
- ❖ For example, being threatened with a weapon (58%), traumatic loss (48%), and physical assault (35%)

### Trauma (Ford et al., 2012)

- ❖ Two complex trauma sub-groups:
- ❖ 20% of the reported some combination of sexual or physical abuse or family violence
- ❖ 15% emotional abuse and family violence but not physical or sexual abuse
- ❖ The resultant combined prevalence estimate of 35% for complex trauma history is about three times higher than the 10-13% estimates of polyvictimization from epidemiological study of children and adolescents

### Trauma (Ford et al., 2012)

- ❖ Interviews with the clinicians treating 40 JSOs found that 95% of these youths had a documented history of at least one past traumatic event, and 65% were determined to have met diagnostic criteria for PTSD.
- ❖ Notably, clinicians viewed the trigger(s) for sex offending as related to a prior trauma in 85% of the youth, including intense trauma-associated fear for 37.5% of the youth, helplessness for 55%, and posttraumatic horror for 20%.
- ❖ 1 in 7 JSOs were found to meet criteria for a dissociative disorder, with physical abuse associated with elevated levels of dissociative symptoms.

### Polygraphy & ID / SMI

### Intellectual Disability

- ❖ Blasingame warns against the use of the polygraph with persons with cognitive limitations (e.g., intellectual disability, autism, traumatic brain injury, etc.)
- ❖ It stands to reason that other conditions that potentially affect perception of reality (e.g., serious mental illness, dementia, etc.) may also interfere with polygraph evaluations

### Research Findings

### The truth, the whole truth, and nothing but the truth?

- ❖ The integrity of polygraph testing with sexual offenders has been attacked on two fronts:
  - lack of process standardization
  - lack of validation research

## British Psychological Society

"Most published research on polygraphic deception detection has been concerned with its possible use in criminal investigations. The results of better quality research studies demonstrate that while the correct classification of deceivers can sometimes be fairly high, incorrect decisions about who is or is not being deceptive occur at rates that are far from negligible."

## National Research Council (2003)

- ❖ The inherent ambiguity of the physiological measures used in the polygraph suggests that further investments in improving polygraph technique and interpretation will bring only modest improvements in accuracy.
- ❖ Polygraph accuracy may be reaching a point of diminishing returns. There is only limited room to improve the detection of deception from the physiological responses the polygraph measures.
- ❖ Almost a century of research in scientific psychology and physiology provides little basis for the expectation that a polygraph test could have extremely high accuracy

## Research Findings

- ❖ Offenders admit more male victims, stranger victims, and unrelated victims than are typically reported in Static-99 (Wilcox & Sosnowski, 2005)
- ❖ Failing a polygraph evaluation did not predict recidivism (Cook, 2011; McGrath et al., 2007)
- ❖ Sexual history exams are least accurate (Consigli, 2002)
- ❖ New information via polygraphy did not improve the predictive validity of the Static-99 (Cook, 2011)
- ❖ Offenders were 14X more likely to report data relevant to assessment, treatment, or supervision.
- ❖ 72% of offenders reported that they found the polygraph helpful in their treatment (Kokish et al., 2005)
- ❖ Hanson & Bussière (1998) found no correlation between denial and risk to reoffend.

## Research Findings

- ❖ "The apparent utility of the polygraph to work both as a treatment and supervision aid and as a deterrent for future offending is cited as ample justification for its use." (Rosky, 2012)
- ❖ However, given its widespread use in the USA, it is curious that there are no studies definitively showing the utility of the polygraph in sexual offender management.
- ❖ Most studies supporting the use of the polygraph suffer from methodological problems and a lack of sufficient peer review. (NRC, 2003)

## Research Plan (Rosky, 2012)



1. Using randomized, controlled trials with appropriate placebo groups, establish what type, if any, of polygraph testing has the most theoretical and empirical support
2. Determine how this type of testing would effectively aid criminal justice agencies in the supervision of offenders in the form of reduced recidivism
3. Assess the impact on accuracy by diseases and mental illnesses related to the physiological processes used in polygraph testing
4. If efficacy and effectiveness are found, determine the best way to incorporate these methods into agencies that minimizes adverse events from both false positives and false negatives

## Polygraphy & Ethics

## Court Rulings (just a few...)

- ❖ In *McKune v. Lile* (2002), the offender refused to comply with polygraph evals in prison, citing his 5<sup>th</sup> Amendment rights. He also suggested that he was being forced to comply to evade undue punishments for noncompliance.
- ❖ In *U.S. v. Antelope* (2005), the offender challenged conditions to be polygraphed on 5<sup>th</sup> Amendment bases. He received limited immunity.
- ❖ In *U.S. v. York* (2004), the 1st Circuit Court affirmed sentencing conditions that included post-conviction polygraph.
- ❖ In *Kansas v. Lumley* (1999), the judge found that polygraph reliability was sufficiently robust to be acceptable for a parole or probation revocation hearing.
- ❖ In *U.S. v. Lee* (2003), the defendant appealed a condition of his release (polygraph) and the 3rd Circuit Court affirmed the conditions.
- ❖ In *Jones v. Virginia* (2003), the State Appeals Court affirmed a revocation based on failure to cooperate with post-conviction polygraph.
- ❖ In *U.S. v. Taylor* (2003), the 11th Circuit Court found that polygraph testing is useful in promoting the treatment of sex offenders because "probationers fear that any false denials of violations will be detected."

## Is polygraph ethical?

Clearly, this is not a black and white issue

- ❖ Cross and Saxe (2001) noted concerns regarding validity and the ethics of coercion.
- ❖ How do we manage the concept of self-incrimination?
- ❖ How does an offender ensure that his or her examiner is proficient enough to administer the test?

## Is polygraph ethical?

- ❖ Is it ethical to use a procedure for which the underlying assumptions might be false?
- ❖ "The polygraphs act similarly to a placebo for some patients, in that if the patient is worried about being caught in a deception, the patient may admit things before the test is administered" (*Willis v. Smith et al.*, 2004)
- ❖ Is use of the polygraph "correctional quackery" (*à la Gendreau et al.*, 2009; Rosky, 2012)

## Questions & Discussion

## Questions & Discussion

1. How widely is the polygraph used with other types of offenders?
2. When is the best time to administer polygraph evals?
3. Should failing a poly delay treatment progress/release?
4. How broadly should we question client activities?
5. Should we focus on only factors specifically related to risk?
6. Is denial sometimes adaptive and healthy?
7. How do health conditions affect polygraph results?
8. How much of the result relies on the skill of the examiner?
9. Can we use pretest information to inform diagnostics?
10. Are there good information-sharing protocols for when an offender gives information about specific offences committed or contemplated?
11. Do offenders sometimes fabricate data in order to appear truthful?
12. Canada...

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