



Tuvya T. Amsel*
Tel Aviv
Israel

Examiner Approach and its Impact on Polygraph Results

Подход оператора и его влияние на результат тестирования на полиграфе

Key words: polygraph examiner, polygraph results

When categorising the different approaches of polygraph examiners toward their examinees on a continuum, one end of the spectrum is taken by the interrogative approach, and the other by the diagnostic approach. What are they? Examiners practicing the interrogative approach perceive polygraph test as a way of extracting confessions from the examinee using the polygraph instrument as a threatening or intimidating tool making the examinee confess, while examiners holding to the diagnostic approach perceive the polygraph as a scientific tool that establishes the examinee's truthfulness or deceptiveness.

The two opposite points of view have a tremendous impact on examiner approach toward the examinee, which in return may result in the examinee's approach creating a vicious circle as clearly exemplified in the actual case discussed below.

* ta@amsel.co.il

In 1990 when his friend and classmate Angela Correa was found raped, beaten, and strangled to death Jeffrey Deskovic from Peekskill, NY, USA was sixteen. Although Angela was not a close friend of Jeffrey, she was one of few classmates who were nice to him. Jeffrey's excessive crying in her funeral led the police to suspect him of her killing. In spite of the fact that the DNA in semen specimen found on Angela's body did not match Jeffrey's, he confessed to the crime after a polygraph test followed by a prolonged interrogation. In his trial, the prosecution convinced the jurors that the victim probably had sex with another man prior to her death and based on his confession he was convicted of rape and murder, and was sentenced to serve 15 years to life in 1991. During all his years in prison Jeffrey claimed innocence. In 2006 the DNA in the semen specimen was retested and matched to a prisoner serving life for another murder. The prisoner confessed to killing Angela, Jeffrey's conviction was overturned, and the innocent man was released. Upon release, he filed a civil right claim against the city of Peekskill, its police investigators, and polygraph examiner for an abusive interrogation and polygraph test that ended with his false confession and wrongful conviction. In 2012 he received a \$ 6.5 million settlement in a federal court. Federal District Judge Karas verdict shed some light on the dubious polygraph results and the false confession: "There is evidence that indicates that the Peekskill officers asked Stephens (the examiner) to conduct a polygraph examination specifically to elicit a confession, as Stephens testified that he was 'known in the department as someone that was good at getting confessions during a polygraph exam', and that he 'had a knack for it'. Indeed, Stephens' assertions are supported by numerous letters from police supervisors from other departments, thanking Stephens for conducting polygraph examinations in other cases that resulted in confessions [...]. While this evidence arguably goes only to the Peekskill officers' motivation for choosing Stephens, the manner in which the polygraph examination was conducted suggests that Stephens **conducted the exam to elicit a confession**. Stephens employed methods and techniques that he arguably knew could produce unreliable results, [...] notably: Stephens used the discredited Arther method and used an unreliable scoring method, despite being trained in more reliable methods; Stephens used improper terminology during the polygraph interview; Stephens conducted an exam that was excessively long; Stephens used various aggressive techniques that were not conducive to a valid exam." [Deskovic v. City of Peekskill et al].

Portrayal of the circumstances surrounding Jeffrey's polygraph test by Judge Karas portrays two aspects that eventually lead to an increased risk of a false positive result:

Peekskill officers' **prior expectations**, or, to put it in the examiner's words, [I am] "known in the department as someone that was good at getting confessions during a polygraph exam", and in order to deliver those expectations the examiner chose to

use an **Interrogative approach** during the test, or, in Judge Karas's words "despite being trained in more reliable methods (...) Stephens used various aggressive techniques that were not conducive to a valid exam".

Prior Expectations

Polygraph test clients seek to receive results that will solve or establish their notion regarding the guilt or innocence of the examinee that they send to the test. Doing that, they transmit verbally or nonverbally their expectations to the examiner. Assorted research (Barland 1975; Elaad et al. 1994; Ben-Shakhar et al, 1986, and Ben-Shakhar and Furedy 1990) found that prior expectation on the client's part tends to contaminate the examiner and influence them toward the expected outcome, which in return affects their behaviour in the examination room and their approach to the examinee.

Diagnostic or Interrogative Approach

While, prior to the test, both examiners are exposed to the same case data and the client's expectations concerning the outcome, the diagnostic examiner commences the test with no bias or prejudice as to the outcome of the test (NDI or DI), and their only concern is to conduct an effective test that will produce an accurate result, thus following to the dot a valid test protocol based on research. On the other hand the interrogative examiner commences the test with prejudice and perceives the polygraph as an interrogative tactical tool to elicit confessions, which consciously or subconsciously affects his approach to the examinee. As a result a biased examiner with a clear agenda tends to be aggressive, displays disbelief in the examinee during the pre-test, does not listen to what the examinee has to and wants to say, uses improper terminology, does not bother to discuss the comparison questions or try to assess their effectiveness, exacting and/or overlooking some reactions while scoring (if at all) etc. The results of such an approach on a truthful examinee leads to false positive result as clearly demonstrated in Jeffrey's case.

Almost all truthful examinees fear to fail the test (Fear of Error). This adds to their natural test anxiety that accompanies such a stressful and momentous circumstance as a polygraph test, whose consequences may be devastating. For such an examinee, an examiner with an interrogative approach is perceived as a "lost case" and as a barrier to pass the test. Consequently, such concerns are funnelled into the relevant questions and the examinee's attention is focused on the relevant questions rather than on the comparison ones.

Post-Test

Although the diagnostic approach should be implemented during the pre-test and the test once the test is over and the examiner noticed deceptive reactions in the charts, a post-test interrogation should be conducted. At first, the examiner should inquire: “What went through your mind when I asked you [name the relevant questions]?” If the answer is: “Nothing” that is the sign that a full scale interrogation should start immediately.

References

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