

# AntiPolygraph.org

Hart Nibbrigkade 22  
2597 XV The Hague  
The Netherlands

maschke@antipolygraph.org

30 November 2001

Los Angeles Board of Civil Service Commissioners  
Civil Service Commission Board Room  
Room 350  
Personnel Building  
700 East Temple Street  
Los Angeles, CA 90012

Dear President Schuster, Vice-President Kranz, and Members of the Los Angeles Board of Civil Service Commissioners:

My name is George W. Maschke, and I'm a co-founder of AntiPolygraph.org, a website dedicated to exposing polygraph waste, fraud, and abuse, and to the ultimate abolishment of polygraphy. I'm also from Los Angeles, but am presently working overseas. As I am unable to be physically present at your 6 December 2001 meeting, I request that a copy of this letter regarding proposed changes to the Los Angeles Police Department's (LAPD's) polygraph program be circulated to each member of the Board for your consideration.

You have been asked to:

"[a]pprove designating the pre-employment polygraph examination as a separate test part in the Police Officer/Police Specialist examination process."

I recommend that instead of designating the pre-employment polygraph examination as a separate test part, that you **rescind the pre-employment polygraph requirement altogether.**

Polygraph testing is a pseudoscientific fraud. It has no scientific basis, but is instead fundamentally dependent on trickery: from beginning to end, the polygrapher must lie to and deceive the subject about the nature of the procedure. While there are numerous elements of deception involved in the conduct of a polygraph test, the key deception is this: the polygrapher, while admonishing the examinee to answer all questions truthfully, secretly assumes that denials in response to certain questions—called "control" questions—will be untrue, or that the examinee will at least have doubts that will cause stress. One control question commonly used in pre-employment polygraph screening is,

"Did you ever lie to a supervisor?" The polygrapher steers the subject into a denial by suggesting that anyone who would lie to a supervisor is unsuitable for hire.

The polygrapher scores the test by comparing physiological reactions to these probable-lie control questions with reactions to relevant questions such as, "Have you ever used an illegal drug?" If the former reactions are greater, the subject passes; if the latter are greater, he/she fails. This simplistic methodology has not been validated by peer-reviewed scientific research.

Perversely, polygraph testing is inherently biased against the very straight-arrows the LAPD needs because the more honestly one answers the control questions, and as a consequence feels less stress when answering them, the more likely one is to fail. The Personnel Department reports that 1,450 pre-employment polygraph examinations have been conducted between 12 February 2001, when pre-employment polygraph screening began, and 30 September 2001. It is my understanding that roughly half of these have been accused of deception. There can be little doubt that many truthful persons are being wrongly accused.

Conversely, liars who understand that the "test" is a fraud can easily beat it by covertly augmenting their physiological reactions to the control questions. This can be done by constricting the anal sphincter muscle, biting the side of the tongue, or merely thinking exciting thoughts. Detailed information on countermeasures (methods for defeating the polygraph) may be found in AntiPolygraph.org's free book, *The Lie Behind the Lie Detector*, which may be downloaded at:

<http://antipolygraph.org/pubs.shtml>

AntiPolygraph.org has made this information publicly available and free not to help liars beat the system, but to help the truthful to protect themselves against polygraph abuse. That polygraph tests are easily beaten should also illustrate the folly of placing any reliance on polygraphy.

While polygraphers claim that any experienced examiner can easily detect countermeasures, peer-reviewed research has shown that they cannot. Indeed, in its 30-year history, the American Polygraph Association quarterly, *Polygraph*, has not published a single article explaining how to reliably detect polygraph countermeasures! If LAPD polygraphers tell you that they can detect the kind of countermeasures described in *The Lie Behind the Lie Detector*, ask them for proof. To begin with, you might ask them to produce a list of the published articles and books that document how to do it. There are none.

You have also been asked to revise Civil Service Commission Rule 4.22 to state:

"The two working days immediately following a candidate's interview, physical abilities test, ~~or~~ performance test, **or pre-employment polygraph test** shall be designated as a review period during which the candidate may submit a protest against the conduct of his/her test or the competency of the raters..."

While this change is no doubt well-intended, by limiting a candidate's time to protest against the conduct of his/her test or the competency of the raters to two days, you will

in practice be depriving candidates of any right to protest against such abuses. Frequently, polygraphers do not inform candidates on the day of the exam whether or not they passed, and the candidate only learns of his passing or failure days or weeks later. Thus, a candidate who wishes to protest against a polygrapher's conduct in falsely accusing him/her of deception would be left without recourse. In addition, I understand that it is the Personnel Department's policy not to release the polygrapher's final report to the candidate. This policy may or may not be a violation of the California Public Records Act, but it effectively prevents any candidate falsely accused of deception from protesting against the competency of the raters, because he/she is prevented from seeing the "evidence" against him/her, or even knowing precisely what allegations the polygrapher may have made.

Federal law enforcement agencies such as the FBI will provide polygraph reports, including polygraph charts, to applicants who request them under the Freedom of Information/Privacy Acts. There is no legitimate reason to withhold such records from LAPD candidates.

Any limitation on the time for a candidate to protest against the conduct of his/her test or the competency of the raters should begin with the date of his/her receipt of the polygraph report and charts, and I think that two days is too short a time for a candidate to seek an independent review of the competency of the raters.

You also have before you a recommendation to revise Civil Service Commission Rule 4.24 to state:

"Unsupported claims of misconduct and all claims against the judgment of the raters in assigning scores for essay, interview, physical abilities, ~~or~~ performance, **or pre-employment polygraph** tests shall not be grounds for a protest under Sec. 4.20, 4.22 or 4.23..."

Again, by preventing candidates from reviewing their polygraph reports and charts, the Personnel Department is systematically depriving those candidates falsely accused of deception of the means by which they might support a claim against the judgment of the raters in assigning scores for pre-employment polygraph tests. This is fundamentally unfair. Polygraph records should be released to the candidate upon request.

The Personnel Department, in the conclusion to its report dated 16 October 2001, states that candidates "will have the right to protest against the pre-employment polygraph examination if they can provide evidence that it was administered improperly or the polygraphist used fraud or prejudice in evaluating their polygraph results."

Note that **all** pre-employment polygraph examinations are conducted under fraudulent pretenses. The candidate is not informed that he/she is going to be lied to in the manner that I only cursorily explained above (see Chapter 3 of *The Lie Behind the Lie Detector* for a much fuller exposition). This element of fraud that is inherent in all pre-employment polygraph examinations may some day result in significant civil liability for the city of Los Angeles. While candidates are required to sign a liability waiver before being polygraphed, they cannot be said to have given informed consent, because they are deliberately misled about the nature of the procedure. This lack of informed consent combined with the fraudulent nature of the procedure could well nullify the waiver of liability if challenged in a court of law.

You have also been requested to delete from Personnel Department Policy 1.13(b) the following:

"A candidate shall be considered for disqualification on the basis of the results of the polygraph examination if the candidate's polygraph examination results were either deceptive or inconclusive due to the use of countermeasures, or the candidate failed to cooperate during the course of the examination."

I urge you to adopt this recommendation. **No candidate should be considered for disqualification on the basis of pseudoscientific polygraph examination results.**

Finally, you have been requested to add to Personnel Department Policy 1.13(b) the following:

"The polygraph examination shall be conducted by a qualified polygraph operator of the Los Angeles Police Department **or a designee**, using standard equipment and accepted techniques."

I suggest that if you are to continue to require candidates to pass pseudoscientific polygraph tests as a condition of employment, that you strike the words "and accepted techniques" from the end of the above sentence, since polygraphy is not an accepted technique in the view of the scientific community. As Dr. Drew C. Richardson, the FBI's recently retired senior scientific expert on polygraphy, testified before the U.S. Senate in 1997, polygraph screening "is completely without any theoretical foundation and has absolutely no validity." And as University of Minnesota professor emeritus David T. Lykken has observed in his seminal work on polygraphy, *A Tremor in the Blood: Uses and Abuses of the Lie Detector* (2nd ed., Plenum Trade, 1998), "...the theory and methods of polygraphic lie detection are not rocket science, indeed, they are not science at all."

In the interest of fairness to LAPD candidates and in the interest of public safety, I urge you to scrap the LAPD pre-employment (and post-employment) polygraph program. I realize that there may be some embarrassment in rescinding a policy so soon after its implementation, but it is clearly in the public interest that you should do so. The National Academy of Sciences is scheduled to complete its Study to Review the Scientific Evidence on Polygraphs in the first half of next year. When that report is published, it should provide you with ample justification for rescinding the polygraph requirement.

I would be happy to answer any questions the Board may have of me.

Sincerely,

George W. Maschke  
AntiPolygraph.org

cc:

Beth Barrett, *Los Angeles Daily News*  
Mitzi Grasso, President, Los Angeles Police Protective League

Gail P. Thomas, Public Safety Division  
Joann E.B. Yerem, *Los Angeles Daily News*

Note: a copy of this letter will also be made available on the AntiPolygraph.org Reading Room page at <http://antipolygraph.org/read.shtml>.