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17 October 2020

Critique and Evaluation of Polygraph Examinations of Benjamin Lawrence Petty

I am a veteran of U.S. Army Intelligence with experience in interrogation, counterintelligence, and counterterrorism. I am also a co-founder of AntiPolygraph.org, a non-profit, public interest website dedicated to exposing and ending waste, fraud, and abuse associated with the use of polygraphs and other purported “lie detectors,” and co-author of *The Lie Behind the Lie Detector*, a popular free book on polygraph validity, policy, procedure, and countermeasures, first published in 2000 and now in its fifth edition.¹

I have received the reports of two polygraph examinations of Benjamin Lawrence Petty conducted by James R. Kelly on Thursday, 14 February 2019 (Attachment 1) and Tuesday, 14 May 2019 (Attachment 2).

However, I am informed Mr. Kelly told Mr. Petty that no video or audio recording is available. This is unusual. The American Polygraph Association’s “Model Policy for Post-conviction Sex Offender Testing”² requires (at Section 10.2) that polygraph sessions be recorded in their entirety:

Audio-visual or audio recording. Examiners should record all PCSOT polygraph examinations. The recording should include the entire examination from the beginning of the pretest interview to the completion of the posttest review. The recording should be maintained for a minimum of three years. The recording documents the quality of the conduct of the testing protocol; documents the content and authenticity of the content of the information provided by the examinee, thus precluding possible future denials; and facilitates a comprehensive quality assurance review when necessary.

1. Maschke, George W. and Gino J. Scalabrini. *The Lie Behind the Lie Detector*. 5th edition. AntiPolygraph.org, 2018. Available at:

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

2. Available at:

https://www.polygraph.org/assets/docs/Misc.Docs/PCSOT_Model_Policy_March_2018%20.pdf

The absence of any video or audio recording prevents me from conducting a full evaluation of the adequacy and propriety of Kelly's conduct of the pretest, "in-test" or chart collection phase, and post-test phase.

In addition, I am informed that Kelly refused to provide Petty with a copy of the computerized data associated with his polygraph examinations, or to even confirm its existence. Without this data, I am unable to review Kelly's scoring of the polygraph charts.

The polygraph technique used by Kelly is a variant of the probable-lie control question test (CQT). In this technique, decisions regarding the truthfulness of the subject are made by comparing the subject's physiological responses (breathing, palmar sweating, heart rate, and relative blood pressure) when answering "relevant" questions (about the matter under investigation, for example, "Did you shoot John?") to such responses when answering so-called "control" (or comparison) questions.

Probable-lie control questions do not directly concern the matter under investigation and are designed in such a way that most people could not provide a yes or no answer with complete confidence. The polygraph operator attempts to convince the subject that the control questions are as important as the relevant questions and must be answered with complete honesty. An example of a common control question is, "Did you ever lie to get out of trouble?" The polygraph operator steers the subject into a denial, suggesting that the person who would lie to get out of trouble is the same kind of person who would commit the behavior that is the subject of the inquiry and then lie about it. But secretly, it is expected that everyone has lied to get out of trouble.

If the subject's reactions to the control questions are stronger than her reactions to the relevant questions, then the subject is deemed to have truthfully answered the relevant questions. Conversely, if the subject's reactions to the relevant questions are stronger, it is inferred that the subject is lying in response to the relevant questions.

This simplistic procedure has no grounding in the scientific method. There is no raging debate amongst scientists regarding the validity of polygraphy. On the contrary, there is broad and longstanding consensus that polygraphy is without scientific basis and is not to be relied upon.³

3. See, Iacono, William G. "Forensic 'Lie Detection': Procedures Without Scientific Basis." *Journal of Forensic Psychology Practice*, Vol. 1 (2001), No. 1, pp. 75-86. Available at:

<https://antipolygraph.org/articles/article-018.shtml>

See also, Iacono, William G. and Gershon Ben-Shakhar. "Current Status of Forensic Lie Detection With the Comparison Question Technique: An Update of the 2003 National Academy of Sciences Report on Polygraph Testing." *Law and Human Behavior*, Vol. 43, No. 1 (2019), pp. 86-98. Abstract available at:

Perversely, CQT methodology actually has a built-in bias against the truthful, because the more candidly one answers the control questions—and as a consequence feels less anxiety when answering them—the more likely one is to fail. Moreover, polygraph tests can be easily beaten through the use of simple countermeasures that polygraph operators have no demonstrated ability to detect.

In addition, examiner bias can influence outcomes, as was illustrated in a 1986 CBS *60 Minutes* exposé on polygraphy. Three polygraph operators were selected at random from the New York telephone directory and asked to administer polygraph tests regarding the theft of a camera and lens to four different employees of the CBS-owned magazine, *Popular Photography*. In fact, no theft had occurred. Each polygraph operator was told that a different employee was suspected as the likely culprit. In each case, the polygraph operator found the person who had been fingered to be lying.

The specific polygraph technique Kelly used in his examination of Petty is the “Air Force Modified General Question Test” (AFMGQT), which is documented in Chapter 9 of the “Polygraph Guide for Standards and Practices” a policy document adopted by numerous law enforcement polygraph units.⁴

Both of Kelly’s polygraph examinations of Petty included the following three relevant questions:

Did you touch your victim’s vagina at Fall’s Creek on or about June 16, 2016?

Did you have any kind of sexual contact with your victim at Fall’s Creek on or about June 16, 2016?

Did you make a sexual proposal to your victim at Fall’s Creek on or about June 16, 2016?

Kelly’s report does not list the control questions against which he compared Mr. Petty’s reactions to these relevant questions. However, typical probable-lie control questions used in post-conviction polygraph screening programs include, “Did you ever lie to your therapist?” and “Did you ever lie to your probation officer?”

<https://www.ncbi.nlm.nih.gov/pubmed/30284848>

4. Available online at:

<https://antipolygraph.org/documents/plea-guide-2018-10-25.pdf>

It is hardly surprising that accusatory relevant questions of a sexual nature, such as those Kelly asked of Petty, might produce stronger emotional reactions than such relatively mundane control questions, even in persons answering the relevant questions truthfully.

Significantly, all of the relevant questions Kelly asked Petty *implicitly assumed Petty's guilt* by referring to "[his] victim." In so doing, Kelly clearly violated the U.S. federal government's standards for the construction of relevant questions, which hold (at Section 4.5):

The examiner should not construct relevant questions that are worded in the form of an accusation or appear to be judgmental. This might cause the examinee to feel the examiner has already reached a conclusion about his honesty or involvement in the crime....⁵

The previously-mentioned "Polygraph Guide for Standards and Practices" includes a similar provision (at Section C4.3.1), holding that "[r]elevant questions should...[n]ot be worded in the form of an accusation or contain an inference that presupposes knowledge or guilt."

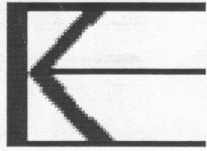
Based on the wording of the relevant questions that Kelly constructed, it seems clear that he presupposed Petty's guilt.

Conclusion

Polygraphic lie detection has no scientific basis to begin with and has an inherent bias against the truthful. Kelly's use of relevant questions that presupposed Petty's guilt made the latter's "failing" all the more likely. Kelly's opinion that Benjamin Petty "was attempting deception" is speculative and is without scientific support.


George W. Maschke

5. See Attachment 3, "Test Question Construction," published by the National Center for Credibility Assessment, dated March 2011.



POLYGRAPH INVESTIGATIONS, PGS
 1370 N. Interstate Dr., Suite 161
 Norman, Oklahoma 73072
 (405) 306-0720

CONFIDENTIAL POLYGRAPH REPORT

Polygraph Examiner - JAMES R. KELLY
 Subject - PETTY, BENJAMIN LAWRENCE PHONE: 405-312-0643
 Probation Officer - Marty Swinney
 Treatment Provider - Chandler & Assoc. - Megan

Date/Time of Examination: February 14, 2019 09:30hrs

TYPE OF EXAMINATION:

Instant Offense - Offense Report recommended; covering the offense(s) for which he is currently under supervision.
 Target event-specific for those **denying any or all of original offense**

RESULTS: **Significant Reaction**

PRE-TEST: Subject arrived at the Polygraph Investigations, PGS polygraph suite in **OKC, Ok.** at the appropriate appointment time at which time the interview was begun. He provided basic background information, read (with the aid of his cellphone camera magnified and scanning over the documents)/understood and signed standard Polygraph releases and read (with aid of his cellphone) and signed the Oklahoma Polygraph Bill of Rights. It is the examiners' understanding that the purpose of this examination was to determine the base truth regarding whether or not Subject falsely denied any or all of his instant offenses. Subject's offenses of conviction included: Rape I, Rape by Instrumentation and Forcible Oral Sodomy of a minor female attendee at Falls Creek on June 16, 2016. Subject denied all of his offenses of conviction and claimed that his ED would have prevented his committing the crimes.

Subject's stated physical condition was poor due to smoking with no serious pain, his attitude was cooperative and communicative, he had gotten 6 hours of sleep in the last 24 hours, he had taken all prescribed medications in the last 24 hours and had more than one week notice for this examination. Based on this interview, the examiner determined that Subject was a **suitable** polygraph examinee at the time of this interview.

Subject related that in June 2016 he was working as a cook in a "cabin" at Falls Creek. He stated that in the middle of the week, he was alleged to have had sexual intercourse and anal rape of a 13 year of age (yoa) female Falls Creek attendee. He denied the allegations.

Subject denied being alone with his victim at any time.

Subject denied that he was ever in his room with the victim.

Subject denied ever being alone with the victim.

Subject indicated that the only physical contact he had with his victim was patting her on the shoulder in the presence of other Falls Creek attendees on one occasion.

Subject denied ever seeing his victim's bare body.

Subject denied any kind of sexual contact with his victim.

Subject denied making a sexual proposal to his victim.

An Air Force MGQT specific issue test was then formulated and administered with the following relevant questions.

Did you touch your victim's vagina at Fall's Creek on or about June 16, 2016?

Did you have any kind of sexual contact with your victim at Fall's Creek on or about June 16, 2016?

Did you make a sexual proposal to your victim at Fall's Creek on or about June 16, 2016?

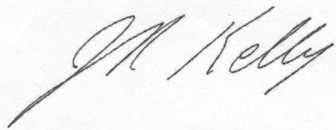
RESULTS: Subject's charts were scored using the AFMGQT Technique.

Subject's charts contained **strong and consistent reactions to the relevant questions** asked during this examination.

Subject's charts were **classified as Significant Reaction**.

OPINION: It is the opinion of this examiner that **Subject was attempting deception** when he answered the relevant questions on this examination.

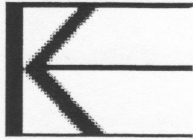
POST-TEST: Immediately after the examination Subject was told that he did not pass this examination and was asked why he reacted to the relevant questions. He indicated that no one believes him and that the "small town cops" set him up by "coercing" his victim to reenact the offense of his conviction for four hours. He added that he pled guilty because he thought he would die in prison.



JAMES R. KELLY - EXAMINER

February 14, 2019

DATE



POLYGRAPH INVESTIGATIONS, PGS
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 (405) 306-0720

CONFIDENTIAL POLYGRAPH REPORT

Polygraph Examiner - JAMES R. KELLY
 Subject - PETTY, BENJAMIN LAWRENCE
 Probation Officer - Marty Swinney
 Treatment Provider - Chandler & Assoc. - Megan
 PHONE: 405-312-0643

Date/Time of Examination: May 14, 2019 14:00hrs

TYPE OF EXAMINATION:

Instant Offense - Offense Report recommended; covering the offense(s) for which he is currently under supervision. Target event-specific for those **denying any or all of original offense**

RESULTS: Significant Reaction

PRE-TEST: Subject arrived at the Polygraph Investigations, PGS polygraph suite in **OKC, Ok.** at the appropriate appointment time at which time the interview was begun. He provided basic background information. It is the examiners' understanding that the purpose of this examination was to determine the base truth regarding whether or not Subject falsely denied any or all of his instant offenses. Subject's offenses of conviction included: Rape I, Rape by Instrumentation and Forcible Oral Sodomy of a minor female attendee at Falls Creek on June 16, 2016. Subject denied all of his offenses of conviction and claimed that his ED would have prevented his committing the crimes.

Subject's stated physical condition was poor due to smoking cigars with no serious pain, his attitude was cooperative and communicative, he had gotten 6 hours of sleep in the last 24 hours, he had taken all prescribed medications in the last 24 hours and had more than one week notice for this examination. Based on this interview, the examiner determined that Subject was a **suitable** polygraph examinee at the time of this interview.

Subject related that in June 2016 he was working as a cook in the Country Estates Baptist Church "cabin" at Falls Creek. He stated that in the middle of the week, he was alleged to have had sexual intercourse and anal rape of a 13 year of age (yoa) female Falls Creek attendee. He stated that he went home sick on Thursday and was home Thursday and Friday.

He elaborated that the only contact he had with his victim was when she came to the kitchen and spoke to him about staffing and talked to him near the cabin when he was outside.

Subject denied being alone with his victim at any time.

Subject denied that he was ever in his room with the victim.

Subject denied ever being alone with the victim.

Subject indicated that the only physical contact he had with his victim was patting her on the shoulder in the presence of other Falls Creek attendees on one occasion.

Subject denied ever seeing his victim's bare body.

Subject denied any kind of sexual contact with his victim.

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Subject denied making a sexual proposal to his victim.

An Air Force MGQT specific issue test was then formulated and administered with the following relevant questions.

Did you touch your victim's vagina at Fall's Creek on or about June 16, 2016?

Did you have any kind of sexual contact with your victim at Fall's Creek on or about June 16, 2016?

Did you make a sexual proposal to your victim at Fall's Creek on or about June 16, 2016?

RESULTS: Subject's charts were scored using the AFMGQT Technique.

Subject's charts contained strong and consistent reactions to the relevant questions asked during this examination.

Subject's charts were classified as Significant Reaction.

OPINION: It is the opinion of this examiner that Subject was attempting deception when he answered the relevant questions on this examination.

POST-TEST: Immediately after the examination Subject was told that he did not pass this examination and was asked why he reacted to the relevant questions. He indicated that he has panic reactions to the issues and always reacts the same way when asked about the offenses or circumstances for those offenses.



May 14, 2019

JAMES R. KELLY - EXAMINER

DATE

NATIONAL CENTER FOR CREDIBILITY ASSESSMENT

PDD 502 – PDD ANALYSIS I



TEST QUESTION CONSTRUCTION

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1. Overview of Test Question Construction

1.1. The central element of any Psychophysiological Detection of Deception (PDD) examination is the examinee's physiological responses to a set of questions. Questions are the fundamental tools of a PDD examiner. How the questions are structured and sequenced represent the principle differences among the various PDD testing formats.

1.2. There are several types of questions used in PDD testing. The objective of this text is to provide information about five types of PDD questions that an examiner might encounter in specific issue PDD testing. The question types are sacrifice relevant, relevant, comparison, symptomatic and irrelevant.

1.3. There are simply too many combinations to cover the specific structure and rationale of every question for all PDD testing formats. As such, this discussion will be limited to a “*generic*” review of test question construction that is common to most specific issue PDD testing formats. Test question construction procedures that are unique for a particular testing format will not be discussed. Additionally, there may be times when the investigative case facts will dictate modifying the test questions to best serve the particular objectives of a specific PDD examination.

2. Definition and Types of Relevant Questions

2.1. A relevant question is a question asked during a PDD examination that pertains directly to the matter under investigation for which the examinee is being tested. There are two general types of relevant questions used in most specific issue PDD testing formats. These are primary relevant questions and secondary relevant questions.

2.2. A primary relevant question is a PDD test question that addresses the primary issue. The purpose of the primary relevant question is to test for direct involvement, i.e., the “did you” aspect of PDD testing. It uses an action verb to describe the act that was committed. Unless dictated by the PDD testing format or issue being tested, a primary relevant question requires the examinee to answer “No”. The following are examples of primary relevant questions:

2.2.1. Did you steal any of that money? No

2.2.2. Did you smoke any of that marihuana? No

2.2.3. Did you shoot that man? No

2.2.4. Did you stab that woman? No

2.3. When conducting PDD examinations of informants, victims, or witnesses the examiner may construct relevant questions that require affirmative answers. In this

type of examination, the issue becomes the examinee's truthfulness, not whether they committed a specific crime. The examiner is simply attempting to verify information previously provided by the examinee. The following are examples of "Yes" answered relevant questions:

2.3.1 Did that man bring marijuana into the classroom? Yes

2.3.2 Did that man show you a substance he identified as marijuana?
Yes

2.3.3 Did that man offer to sell you marijuana? Yes

2.4. A secondary relevant question is a PDD test question that addresses a secondary element of the issue addressed in the primary relevant question. Typically, if the case facts allow, this category of relevant question addresses four secondary elements of the primary issue: (1) secondary involvement, such as help, plan, or participate; (2) secondary element, such as seeing, hearing or knowing who committed the primary act; (3) knowledge of the nature or location of evidence; and (4) physical acts that support the primary issue, such as tearing, cutting or breaking. This question does not address direct involvement as direct involvement is reserved for the primary relevant question. The secondary relevant question(s) shall be constructed to require the same answer as the primary relevant question(s). Some examples of secondary relevant questions are:

2.4.1 Did you help anyone steal any of that money? No

2.4.2 Did you see anyone steal any of that stereo equipment? No

2.4.3 Do you know where any of those stolen weapons are now? No

2.4.4 Did you tear any of that woman's clothing? No

3. Prioritizing/Selecting Issues (Targets) for PDD Testing

3.1 There are many guidelines that influence how proper relevant questions are selected and constructed. Two critical steps examiners must consider when developing proper relevant test questions are target selection and appropriate relevant question construction.

3.2. Target selection is an extremely critical element in developing relevant questions. In complex investigative matters, the PDD examiner must first determine the number of issues or targets to be resolved. In specific issue testing, it is imperative that the correct targets or issues be selected for testing. Additionally, in investigations where there are multiple targets to be tested, it is critical that the correct target is selected for the initial series. If necessary, additional targets or issues can be resolved with additional PDD testing.

3.3. During the target analysis selection phase, the examiner will generally consider four elements in selecting the initial issue for testing. The four elements are: (1) determine the number of issues to be tested and then select the most serious/intense issue; (2) focus on the action that describes what the suspect did to commit the act(s); (3) focus on the probable motive of the suspect; and (4) select the target that connects the suspect most closely to the crime.

3.4. After all the issues have been determined in a complex investigation; the examiner should reference a directive, statute or other appropriate document to determine the most serious offense (issue) in terms of potential prison confinement. For example, in the military judicial system, the examiner usually refers to the maximum punishment tables listed in the Uniform Code of Military Justice (UCMJ) Section of the Manual for Courts-Martial (MCM). This particular index describes the type of crime, amount of potential confinement for each offense, and various other administrative actions that may be taken against an offender. For instance, a male examinee is suspected of stealing a female's purse and then raping her. Within the MCM, in terms of potential confinement for larceny and rape, the more serious offense is rape. Therefore, the issue to be addressed in the primary and secondary relevant questions for the initial series should focus on the rape. If additional testing is necessary for the larceny issue, an additional series can be conducted for that aspect of the investigation.

3.5. After the most serious offense has been determined in multiple issue investigations, the examiner should then focus on the action that describes what the suspect did to commit the offense. In performing this task, the examiner must ensure that the most appropriate relevant questions have been developed for the "*case-at-hand*." Additionally, if the correct "*action verb*" is presented in the question, it will help to prevent the suspect from rationalizing out of the act posed by that relevant question. The following are examples of appropriate verbs that best describes the act committed by the suspect:

3.5.1 Did you "*smoke*" any of that marihuana?

3.5.2. Did you "*tear*" that woman's blouse?

3.5.3. Did you "*shoot*" that man?

3.5.4. Did you "*make*" any of the writings on that check?

3.5.5. Did you "*hit*" that woman?

3.5.6. Did you "*steal*" any of that money?

3.6. During the development of primary and secondary relevant questions, the PDD examiner should avoid asking questions that probe the suspect's "perceptions" or "intent" while committing the crime. Sometimes these conditions change over time or a suspect's original intent may have changed after the crime was initiated. This may allow a suspect who committed the crime to rationalize out of the relevant question. For

example, a suspect commits a burglary to steal property inside a residence. After obtaining entry to the residence, he discovers a woman inside and decides to rape her. His original intent was to steal property but changed to rape after the crime was initiated. There is case law in which a trial judge disallowed a polygraph examination from being admitted into evidence because of the wording of the relevant questions asked of the examinee (United States v. Woodward, 1998). In this case, one of the reasons articulated by the trial judge was that the examiner used relevant questions that tested the intent of the examinee. The trial judge reasoned that an examinee's physiological responses to questions regarding her specific intent would be different from her responses to questions about her actual conduct. The following are examples of questions that might probe an examinee's perception or intent and should be avoided:

3.6.1. Did you "*purposely*" touch that female's buttocks?

3.6.2. Did you "*deliberately*" set fire to that house?

3.6.3. Did you "*intend*" to hurt that child?

3.7. After determining the most significant issue for the initial test and constructing the relevant questions based on the act that caused the crime to be committed, it is necessary to try to understand the suspect's motivation for committing the crime. This is especially true if there are multiple issues in an investigation with potentially equal punishments. For example, during a burglary and subsequent theft of money, the suspect's motive was more than likely to steal money (or anything else) from inside the residence. The burglary was simply an act that was accomplished to satisfy the theft motive of the suspect. Therefore, the target (primary issue) of the relevant questions for the initial PDD examination should focus on the theft. If the suspect is deceptive to the theft issue, then more than likely, this same individual also committed or was involved in the burglary. However, if the investigative case facts disclose the possibility of multiple suspects with different levels of involvement in the crime and if deemed appropriate, another PDD examination can be conducted for the burglary issue.

3.8. Finally, case facts must be considered when selecting the initial issue to explore in the relevant questions. As indicated above, in an investigation with multiple issues involving multiple suspects, a suspect might be involved in one or more of the issues, but not all. If possible in these instances, the PDD examiner should target the issue that most closely connects the suspect to the crime. In many cases, this crime connection can often be provided by talking with the case agent/investigator and reviewing the investigative file for circumstantial evidence or other case facts.

3.9 After the correct target has been selected for testing, the PDD examiner must then construct the relevant questions in a manner suitable for the current investigative case facts and examinee. The following information should assist in developing the correct relevant questions for the target of the PDD examination.

4. Constructing Relevant Questions

4.1. Relevant questions should be written in a clear and concise style. The questions should not contain any unnecessary verbiage, as this tends to make the questions more cumbersome and difficult to understand. Relevant questions must be constructed in a manner so their meaning is unmistakable. Relevant questions should also be developed in a manner consistent with an examinee's intelligence level. If the examinee does not understand a relevant question due to complicated wording or an inadequate vocabulary cognitive processing could occur possibly affecting the PDD examination outcome. Relevant questions should address only one issue, i.e., should not be compound questions. The following are examples of poorly worded questions:

4.1.1. Did you steal any money or anything else from that store yesterday?

4.1.2. Did you manipulate any part of that female's sex organs for sexual gratification, while at her house?

4.2. Rather than asking the above questions which are compound in their meaning and contain extra verbiage, the examiner should consider asking the following relevant questions:

4.2.1. Did you steal any of that money?

4.2.2. Did you touch that female's vagina?

4.3. The examiner should also avoid using legal jargon or other words that could be perceived as emotion evoking. Words such as assault, rape, sodomize, murder, molest, mutilate, butcher, and kill should not be utilized in relevant questions. As indicated above, the examiner should use an action verb in the relevant question that describes how the crime was committed, i.e., hit, strike, stab, shoot, cut, steal, etc.

4.4. When presented to the examinee, the relevant questions should pose a dichotomy so they will have to answer "Yes" or "No." This helps to avoid vague or extended answers and ensures that the examinee's position on the issue is clear. If the examinee is allowed to verbally reply in any other manner, this could generate artifacts or other excessive noise in the physiological tracings, making test data analysis difficult or impossible. All relevant questions on any given series shall be constructed to elicit the same answer. A test that would require the examinee to provide both "Yes" and "No" responses to the relevant questions on the same chart could elicit physiological responses due to the cognitive process required to discriminate which relevant questions are answered in the affirmative versus the negative.

4.5. The examiner should not construct relevant questions that are worded in the form of an accusation or appear to be judgmental. This might cause the examinee to

feel the examiner has already reached a conclusion about his honesty or involvement in the crime. For obvious reasons, the following types of relevant questions **should not** be asked during a PDD examination:

4.5.1. After you forged that check, did you cash it?

4.5.2. After John shot that bank teller, did he tell you where he hid the weapon?

4.5.3. Did you use any of that cocaine you purchased from Smith?

4.6. Because of the possibility of multiple suspects sharing fruits of the crime, or money amounts being inflated to cover other possible criminal activity (employee theft, management embezzlement, etc.), the examiner should always use the phrase "*any of*" when the issue involves multiple items or amounts of money. This will help to prevent the examinee from rationalizing his involvement in the crime because he only stole/received a portion of the money. In this regard, the following are examples of improper relevant questions:

4.6.1. Did you steal the \$495.00 from that room?

4.6.2. Did you burn those classified documents?

4.7. Instead of the above examples, the examiner should consider asking the following relevant questions:

4.7.1. Did you steal any of that money?

4.7.2. Did you burn any of those classified documents?

5. Probable Lie Comparison Questions

5.1. In most specific issue testing formats, a comparison question is designed to be a probable lie. In most PDD literature, a probable lie is defined as the denial of a misdeed that a person has more-than-likely engaged in or considered. In the various comparison question test formats, comparison questions are sequenced so that responses to these questions are compared to the physiological responses of the relevant questions.

5.2. Based on the theory of psychological set, it is assumed that *No Deception Indicated* (NDI) examinees will be more concerned, and thus, more physiologically aroused with comparison rather than relevant questions. During a PDD examination, psychological set is based on the presumption that an examinee will focus his attention on the test questions that present the greatest significance (signal value) to his immediate safety or well being. During the pretest interview, the examinee should be informed there are two issues of equal importance, i.e., the offense under investigation and *the "background issues"* that are similar in nature to this type of behavior. During this

procedure, the examiner should never tell the examinee there is a distinction between the relevant and comparison questions to allow the examinee to form their own “*psychological set*.”

5.3. In constructing probable lie comparison questions, they should be similar in nature, but unrelated to the specific crime or issue being tested. To ensure that the comparison question is not potentially relevant, a comparison question must be separated from the relevant issue by time or place. For example, in an issue involving the theft of \$10,000 in February 200_ (current year), the primary relevant and comparison questions might be:

5.3.1. Relevant question: Did you steal any of that money?

5.3.2. Comparison question (time): Before 200_ (current year), did you ever steal anything? (Time bar is before crime occurred)

5.3.3. Comparison question (place): Before arriving in South Carolina, did you ever steal anything? (Crime occurred after examinee arrived in SC)

5.4. In certain instances, comparison questions can also be separated from the relevant issue by category. However, the examiner must exercise extreme caution in using a “*category*” comparison question without a time or location event. This is to ensure that the life experiences incorporated in the comparison question do not fall within the relevant issue category, thus invalidating the entire PDD examination. In some instances, category comparison questions that appear to be separated from the relevant area may actually be relevant. For instance, if an examinee is suspected of stealing their roommate’s private property, a proper “*category*” comparison question might be: “*Did you ever steal any government property?*” However, an examiner would not want to ask this same examinee, “*Did you ever steal anything at all.*” This comparison question would clearly incorporate the roommate’s stolen property. As such, it would become a relevant question rather than a “*category*” comparison question.

5.5. In most instances, a comparison question should use the same or similar action verb as that used in the primary relevant question. Such as:

Relevant Question	Comparison Question
Steal	Steal
Shoot/Stab/Hit	Hurt/Harm/Injure
Set Fire	Damage/Destroy
Drug Possession	Contraband
Drug Use	Lie (but not about using drugs)
Rape Suspect	Sex comparison/Lie about sexual activities
Child Abuse (Physical)	Hurt/Harm/Injure

5.6. A probable lie comparison question should be broad in scope and time so that it captures as many past life experiences of the examinee as possible. Theoretically,

as the scope and time of the comparison question increases, the more significant that question becomes (signal value increases) for the examinee. This best serves the interest of the NDI examinee. Each comparison question in a specific issue PDD examination should address a single issue, i.e., should not be a compound question.

5.6.1. Acceptable: Before, this year, did you ever steal anything?

5.6.2. Unacceptable: Before this year, did you ever steal anything from a loved one or a place you worked (compound issue in same question)?

5.6.3. Typically, if a comparison question contains an “and” or an “or” in describing the issue, it will be considered an unacceptable compound question

5.7. Imagine that at 2100, 11 Feb 200_ (current year), PVT Jones was stopped for a routine traffic inspection. At that time, a bag of marihuana was found in his car. Jones denied any knowledge or involvement with the marihuana. If the following comparison question was utilized, it would be improper, even though it is separated from the relevant issue by time: *“Before 200_ (current year), did you ever smoke any marihuana?”* If it incorporated any active duty time prior to February 200_ (current year), this comparison question would be improper in the military because the military member would still be in violation of the Uniform Code of Military Justice. In this instance, using a “lie” comparison question would be the proper type of comparison question to use, such as, *“Before 200_ (current year), did you ever lie about anything important?”*

5.8. As described previously, there are some instances where using the same action verb in the comparison and relevant questions would be inappropriate. In these instances, it is generally acceptable to utilize “lie” comparisons only. Typically, the categories of relevant issues where lie comparison questions would be more appropriate are:

(1) Confirmatory testing, (2) Use of illegal drugs, and (3) Child sexual abuse (PDD examination of pedophiles). Finally, in most instances, it is allowable to use one “lie comparison” in most PDD examinations as long as that lie comparison is related to the relevant issue. For example, in a theft issue, it is generally acceptable to utilize one comparison question that is phrased: *“Before _____, (separated from relevant issue) did you ever lie about anything you ever stole?”*

5.9. When an examinee makes an admission to a comparison question, it must be incorporated into the question so the examinee can still answer “No.” Typically, this is accomplished by adding a prefix at the beginning of the comparison question. Some examples of possible comparison question prefixes are (not all inclusive):

5.9.1 Other than what you told me, before 200____, did you...

5.9.2. Besides what we discussed, prior to arriving at_____, did you...

5.9.3. Other than that one time, before your ____ birthday, did you....

5.10. When incorporating an admission prefix into a comparison question, the examiner should not list the examinee's specific admission. This will prevent inadvertent disclosures of comparison question admissions to unauthorized personnel. Examples of improper comparison question prefixes are:

5.10.1. Other than those two candy bars, the pornographic magazine, and the money from your Dad's wallet, before 2000, did you ever steal anything?

5.10.2. Besides the money from your spouse's wallet, prior to arriving at Fort Jackson, did you ever steal...?

5.10.3. Other than those four police officers, seven school teachers, and your parents, before this year, did you ever lie . . .

6. Sacrifice Relevant Question

6.1. A sacrifice relevant question is designed to serve as an introduction to the relevant issue questions. During the data collection phase, whether innocent or guilty, some examinees may physiologically respond to the first relevant question that is asked. As such, in PDD testing formats that have a sacrifice relevant question, it is not scored during the test data analysis phase. Thus, it is "sacrificial." In most PDD testing formats there is a standard format for the sacrifice relevant question. It is worded so the examinee will answer "Yes." Most specific issue testing formats will provide the exact wording of the sacrifice relevant question. Below are some generic examples:

6.1.1. Regarding that stolen vehicle, do you intend to answer each question truthfully?

6.1.2. Regarding your complaint about that man, do you intend to answer each question truthfully?

6.1.3. Regarding whether or not you shot that man, do you intend to answer each question truthfully?

7. Symptomatic Questions

7.1. Symptomatic questions are designed to test for an outside issue that may be more significant (have more signal value) for an examinee than the comparison and relevant issues. Symptomatic questions are not scored during the test data analysis phase of a PDD examination. Symptomatic questions are utilized in the "*Zone Comparison Test*" format. When used, the specific PDD test will dictate their placement in the testing format. Some examples of symptomatic questions are:

7.1.1 Do you believe I will only ask you the questions we reviewed?

7.1.2. Is there something else you are afraid I will ask you a question about?

8. Irrelevant Questions

8.1. An irrelevant question is the first question asked during a PDD examination. It is designed to introduce the examinee to the beginning of the test questions and to allow the orienting response to habituate before a scoreable question (comparison or relevant) is asked. It is a neutral question that must be unrelated to the issue being tested. Irrelevant questions are worded so the examinee always answers "Yes." They are not scored during the data analysis phase. During the data collection phase of most specific issue formats, an irrelevant question can also be inserted after an artifact occurs or there is continued response from previous stimuli. This will allow the examinee to return to a state of homeostasis before a scoreable question is asked. Some examples of irrelevant questions are:

8.1.1. Are you now in South Carolina?

8.1.2. Are the lights on in this room?

8.1.3. Are you now sitting down?

9. Polygraph Test Question Limitations. As established in DoD Instruction 5210.91, it is NCCA policy that test questions probing a person's religious, racial, or political beliefs and lawful affiliations that are not related directly to the investigation are prohibited.

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