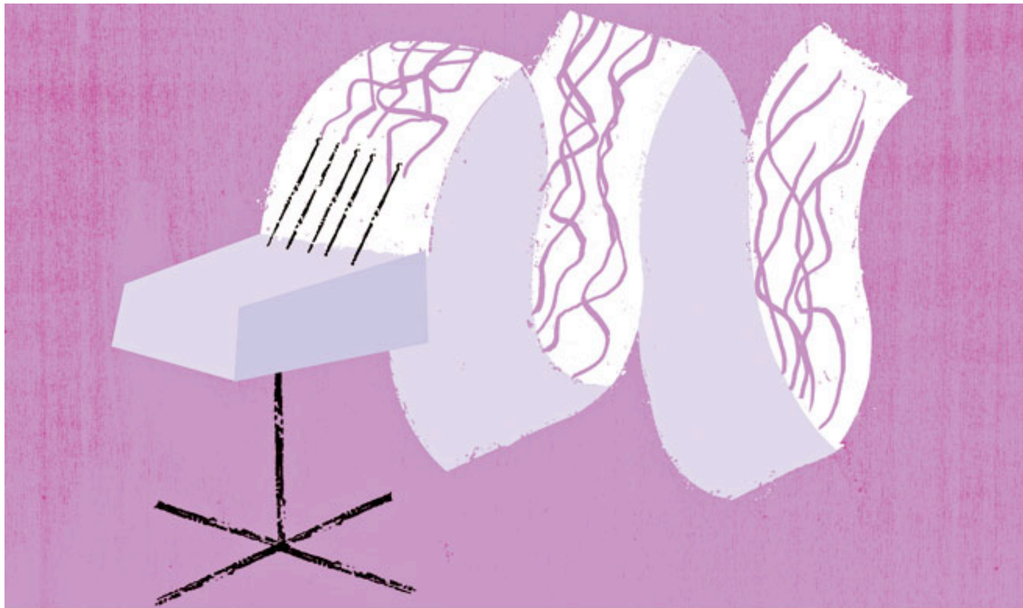
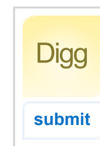


illustration by Tim Gough

The Thin Blue Lie

A wannabe cop does battle with the polygraph. And loses.

RANDALL PATTERSON | MARCH 20, 2009 | FEATURES



About a year ago, when freelance writing seemed especially precarious and a dying newspaper industry offered no easy refuge, I began to think maybe the Houston Police Department and I could work out a deal.

The department was desperate for recruits. Masses of officers had retired just as the city's population boomed, and the usual recruiting pool was away fighting two wars. Everywhere you looked—on billboards, in the paper, on the Web—HPD had posted help-wanted signs. "Be a Hero!" the message went. "You, too, can become a real hero." "Heroes Start Here!" It's hard to explain the effect these ads had on me, but the truth is, I'd always wanted to be a hero. With the cops offering "a competitive salary," "excellent, affordable health insurance," and a "pension plan with early retirement options," I couldn't help imagining myself as an action hero. I became obsessed with the idea, wildly optimistic. It didn't matter that I was 44 years old and had never held a handgun. Here I was, reasonably fit and lightly educated—and with the soldiers away at war, who better, I thought, to fight for truth and justice than a reporter? Who better to discover what people have done and why they have done it? Maybe I'd make detective, I thought. Perhaps I'd write a book. Anyway, heading downtown, I imagined the cops poring over my clippings, reflecting on the brave deeds and noble qualities displayed therein—and embracing me as a hero almost at once.

Instead, I was met in the HPD recruiting lobby by a grim Sgt. Dominguez, who led me into a small, white room. The sergeant didn't care about my old magazine stories or special qualifications or even why I wanted the job. Staring at me across the table, she demanded, "What is the worst thing you have ever done?" I began telling her about my divorce, that leaving my wife and moving away from my children had made me feel horrible. The sergeant cut me off and made clear that she wanted more than tales of domestic strife. She wanted me to confess my crimes. Dominguez soon laid before me a thick stack of questions, asking

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whether I had ever committed:

“Any act of unlawfully taking the life of another human being?”

“Any sexual act involving an animal?”

“Any incestuous act?”

“Any act, as an adult, of exposing your anus or genitals, in public?”

The questions appeared in something called the “Houston Police Department Pre-employment Polygraph Questionnaire,” along with instructions that I’d better not “falsify, misrepresent, lie about facts, leave out, neglect to mention, or purposely withhold any information” if I wished to pass a polygraph exam and obtain a job. So I told the truth. What did I have to hide? The questions repelled me, but I assumed that suspicion was just a formality with the cops, a sort of hazing I had to navigate before being embraced as a fellow hero.

Things didn’t work out the way I’d hoped, and only after I was branded a liar and rejected did I really begin thinking about this weird thing, the polygraph, and why law enforcement depends on it.

What strikes me now is how legitimate it all seemed. The office of the polygraph examiner didn’t look like a traveling gypsy sideshow. The examiner wasn’t wearing purple robes and a conical hat. In a desolate little business park, Boyd, Smith & Associates was the door with bars on it. Inside was a white lobby with old magazines and plastic plants on the tables, and various diplomas posted on otherwise barren walls. Sidney Smith was a stout, white-bearded old fellow in a plaid shirt who greeted me vigorously, as though we were old friends. I was soon signing a form, acknowledging him to be “a professional polygraph examiner, who is licensed by the State of Texas Polygraph Examiners Board.”

No similar board exists in Texas for the licensing of witches or warlocks or voodoo palm readers. The Occupations Code does regulate “persons who purport to be able to detect deception,” but only those who purport to do so “through the use of instrumentation.” Such persons must meet “minimum instrumentation requirements” by going to a board-approved lie-detecting school (such as the Texas Department of Public Safety Law Enforcement Polygraph School) and demonstrating their prowess before the board of examiners. Since most board members are polygraph examiners, they claim to know a true lie detector from “untrained, unlicensed and unscrupulous” fakers. Sidney Smith’s license was proof that I was getting the real thing.

I followed him down a dark passage and emerged in another stark room. Beside a white wall was a large chair and, behind the chair, a desk with a machine on it. The machine seemed to have plenty of wires; instead of the old-style paper scroll, there was a glowing computer monitor. It looked even more scientific than the polygraph machines I remembered from TV, and I suppose I thought that you probably have to be highly skilled to operate such a machine. Together, he and his polygraph must produce reliable results, I assumed, or the state of Texas would not have licensed Smith, and the Houston police would not have sent me here.

Only later did I realize how stupid I was. In the most authoritative study yet done, a committee appointed by the National Research Council—the Committee to Review the Scientific Evidence on the Polygraph—found that a polygraph exam is administered today much as it was 90 years ago, when the machine was invented by the creator of Wonder Woman, William Moulton Marston.

"The theoretical rationale for the polygraph is quite weak," the scientists sniffed. You don't have to look hard to see the problem: The lie detector doesn't detect lies. The machine merely graphs fluctuations in sweat, blood pressure, and heart and respiration rates while the subject is examined. All else is left to the examiner, and "one cannot rule out," the scientists wrote, "the possibility that polygraph responses vary systematically with characteristics of examiners, examinees, the test situation, the interview process, and so forth."

An even greater fault exists in the standardized aspects of the test—namely, the assumptions on which an examiner bases his judgments. "Theory," the committee's scientists observed, "invokes the following presumed chain of mechanisms": that lying makes people anxious; that people exhibit their anxiety physically; that the polygraph records these physical symptoms; and that a show of anxiety on a polygraph chart is thus the sign of a lie.

"The validity of psychophysiological detection of deception by the polygraph depends on validity all along this chain," the scientists wrote. And "important threats to construct validity come from the fact that the physiological correlates of psychological arousal vary considerably across individuals, from the lack of scientific evidence to support the claim that deception has a consistent psychological significance for all individuals, and [not least] from the fact that psychological arousal is associated with states other than deception."

In other words, not everyone gets anxious when they lie, and not all anxious people are liars. Only the examiners assume otherwise, and perhaps the strangest aspect of their strange science is that they depend on subjects to lie. In the test's most common form, the examiner selects certain questions "to create a temptation to deceive," the scientists noted. Negative answers to such questions as "Have you ever violated a minor traffic law?" are presumed to be lies. And whether you lie or not, you pass the test by showing stronger physiological symptoms of anxiety during these "probable lie questions" about minor traffic violations than to queries regarding your possible involvement in bestiality or incest or murder.

The review committee ultimately found "little basis for the expectation that a polygraph test could have extremely high accuracy." The best they could say was that in controlled tests regarding specific events (such as, "Did you rob the bank on Friday?") and involving "naive examinees" untrained in the many easy ways to thwart the test, the polygraph might discriminate lying from truth-telling at rates better than chance. When the polygraph is used in employment screening, accuracy is "almost certainly lower," the committee reported, because questions such as "Have you ever committed a crime?" are so open-ended that "two examinees who have committed the same minor infraction [say, jaywalking] might have very different interpretations of its relevance to a test question, and very different emotional and physiological reactions." At the same time, truthful answers to such questions are so difficult to grade that no study has ever been done.

"There is essentially no evidence on the incremental validity of polygraph testing," the scientists concluded. "That is, its ability to add predictive value."

Small wonder that polygraph results are inadmissible in most courts and that most employers are prevented from administering the test, thanks to the Employee Polygraph Protection Act of 1988.

The curiosity is why the government exempted itself from the act, and why law enforcement and national security agencies continue to depend on the polygraph.

Rod Newman, who manages hiring for the city of Houston, said that all candidates for public safety jobs in Houston must submit to a polygraph because "these people are in charge of our safety. They carry weapons, and it's imperative that we know about their character." Newman does not speak of the gizmo as a lie detector, however. "We prefer to call it a polygraph," he said. When I asked what purpose a polygraph might have other than lie detection, he said, "I'm not going to get into that with you."

The Committee to Review the Scientific Evidence explains, in a secondary finding, the difference between the validity of a technique and its utility. "In the long run, evidence that a technique lacks validity will surely undercut its utility," the scientists wrote. But for the moment, many people continue to believe that polygraph machines can detect lies, and "this expectancy can become so strong that it motivates the examinee to admit or confess to crimes or other transgressions."

The committee may as well have said, "hide this report," for after it was released in 2003, there was no effect on the polygraph, at least according to Donald Krapohl of the American Polygraph Association. The APA and other professional associations continue to grow, he said, mostly with examiners who are affiliated with law enforcement. A survey of 626 of the largest police departments conducted by the APA claimed that two-thirds used the polygraph to screen prospective employees. PDs responding to the survey said the polygraph allowed them to "develop information that cannot be gotten by other means," and that they were able to use this information to disqualify roughly a quarter of their applicants—and also send some of them to prison.

The polygraph often "revealed applicants' involvement in serious, undetected criminality," the APA survey found. "For example, 9% of the agencies said that polygraph screening detected involvement by some applicants in unsolved homicides; 34% [of agencies] indicated some applicant involvement in forcible rape; and 38% showed some applicant participation in armed robberies."

The Committee to Review the Scientific Evidence found that such confessions would likely occur with "a bogus pipeline—an interrogation accompanying the use of an inert machine that the examinee believes to be a polygraph."

I'm no saint," I said when I sat down with Sidney Smith. Behind the desk, he chuckled and let me know he was no saint, either. Neither is the chief, he went on. And "saints don't make good cops anyway—too naïve."

Good cops are human, he said. It's OK to make a few mistakes, but what the department hopes to avoid are extremes of personality—cops who might sell heroin out of the squad car. I seemed to be a good

guy, but “we have to verify,” he said, and that’s what the polygraph was for.

Smith folded his hands on the desk and leaned forward. We had come to that part of the interview where, according to HPD protocol, the examiner explains how the polygraph works “in simple terms the applicant can understand.”

“I’m not here to trick you,” Smith said, and slowly told me that every human being has a fight-or-flight response to fear, that I had been admonished since childhood to always tell the truth, and that the instinct for truth was now so strong in me that any deliberate lie would cause fear—increased heartbeat, rapid breathing, all that. The polygraph would detect that fear, Smith said, and as per department policy, he said that I “must be 100 percent truthful on all the questions to pass the test.”

I just nodded with an open mouth. Then Smith began imploring me like a preacher to “clear my conscience” to avoid guilty thoughts during the test. All of this was in accord with section 5, part C, subsection 1 of HPD standard operating procedure number 22/8.03: “Examiner will make an attempt to uncover undisclosed information.”

I thought I’d disclosed everything back at the station, but I wanted to pass the test and considered it best to go along. When Smith handed me a list of illegal drugs and asked me to review it for any I’d used, I wasn’t thinking about the tape recorder running beside me and hadn’t paid attention to the form I’d signed that said the recording might be turned over to “investigating officials.” Nor was I aware that anything I disclosed would be regarded as a sign of previous withholding. I assumed that my session with the examiner was part of a continuous, exhaustingly thorough interview process, and that I was continuing to cooperate as I scanned the list—and paused at hashish.

Now, what does that look like? I asked Smith. When he described it, an image came to mind, and I told him that I must have seen hashish, and so had probably used it, in the eighth grade. That was when I got introduced to marijuana. As I’d already said back at the station, I hadn’t consumed an illegal drug other than marijuana since, and not that for nine years.

Smith made a note. He was soon strapping me into his amazing machine, and I can’t say it wasn’t a thrill. The Web site of the American Polygraph Association tells me now that there were “convoluted rubber tubes” around my chest and stomach to record respiratory activity, “two small metal plates” attached to my first and third fingers to record sweat-gland activity, and a blood pressure cuff around my left arm recording cardiovascular activity. I had never felt more alive and joked with Smith that I seemed to be sitting in the electric chair—whee! Smith mumbled something about being a rich man if he only had a nickel for every time he’d heard that. There must be some truth to it then, I said, and didn’t understand why Smith didn’t laugh.

He sat down behind me and told me to stare straight ahead at the white door. Not to fidget. Not to take deep breaths. “Behave normally,” he said.

The first question was easy: “Are you wearing shoes?” Quite obviously I was wearing shoes, and when I said

so, Smith let me know his machine was operational. He began asking everything he had asked before. Some of the questions he framed as issues of "honesty and integrity," and section 5, part D, subsection 2 of procedures directed him to say that honesty and integrity questions were very important to the department. I recognize now that these were the probable-lie questions, important only for comparison purposes, and that Smith was just creating the temptation to deceive. I told only the utter truth: Yes, I had lied to a loved one. No, I had never stolen anything beyond the paper clips and pens I took home from the office.

Smith would have had nothing for comparison when he came to the relevant questions. Most of these I thought impossibly broad, and this is where my relationship with the examiner broke down. Smith didn't ask, do you promise you're a nice guy? But he did want to know:

"Do you plan to answer my questions truthfully?"

"Have you ever committed felonies for which you weren't caught?"

"Have you ever done anything that would disqualify you from becoming a Houston police officer?"

Of course, I planned to answer truthfully; I wouldn't lie about that. But how could I tell the truth without knowing what all of the felonies were, or every act that would disqualify me from joining HPD, or whether I would remember all the violations of rules I've never known?

Then Smith began focusing on an incident I'd freely confessed back at the station. The form had specifically inquired about "any sexual act after you were age seventeen with another person who was less than fifteen," and I was able to recall the time when I was 19 and the well-endowed girl at the beach said she was 17, and we were rolling around in the sand, still clothed, when her father intervened, and I learned she was 13.

Thirteen! I fled that dangerous girl, considered it a narrow escape and hadn't thought much about it in the quarter century since. Smith, though, couldn't stop thinking about it. Before the test, he had asked in several ways whether I'd had sexual contact with other girls so young. Innocently, I'd answered, how could I know the age of those high-school sophomores I'd dated as a senior? I didn't card them. Besides, we kept our clothes on.

Now came the question: "Excluding the cases we talked about, have you ever committed any of the sex crimes we talked about?" I had to think about the first half of that sentence, and then the second half, before realizing there was no good way to answer. Nothing I'd confessed did I consider sex crime, and yet merely to respond "no" was to admit sex crime. When I protested the wording, Smith refused to alter it. Just answer the question, he said—yes or no.

No, I said, and began to feel the impossibility of telling truth to a polygraph machine—of ever being verified by the machine as a good guy. The thrill was gone, and I began to feel suffocated by the convoluted tubes, assaulted by endless questions that seemed always like accusations. The scientific review committee mentions something called the "'guilty complex'—an individual attribute that may lead innocent people to respond physiologically as do guilty people." Anyway, I began to squirm and fidget. Probably I began looking

guilty.

At the same time, I noticed that Smith's attitude toward me had changed, that he wasn't as friendly as while I was confessing. The review committee notes that "an examiner's belief, or expectancy, about examinees' guilt or innocence ... may cause the examiner to behave differentially—for instance, in a more hostile manner—toward examinees believed to be guilty or deceptive. Such behavior would plausibly create differential emotional reactions in examinees that could affect physiological responses that are detected by the polygraph."

At last, I took a deep breath in the electric chair—you might even call it a sigh—and heard Smith bark, "Breathe normally!"

"How can I breathe normally with this thing around my chest?" I objected. "You can't be conscious of your breathing and breathe normally."

Smith had had enough. "Look," he erupted, "do you want to get this over with or not? I've done this day in, day out for years, and I've never had anyone complain the way you do! You're a big guy. Sit still and stare straight ahead."

So, veins popping, I did—I wanted my polygraph test to go well. Smith moved without pause to a question about drug use, then told me I showed deception in the areas of drug use and sex.

There's been a mistake, I told the man downtown, but nothing I said could make the cops believe it. The man downtown, a Sgt. Abad, just stared at me dully and said I actually showed deception across the board. All was not lost, though, for "dishonesty alone doesn't keep you from being a cop," he said. The important thing for me now was just to confess. Give a recruiter a call, he said, when you can "explain these readings."

Two weeks passed, and I really didn't know what they expected of me. I suppose now that some people pick up the phone and confess to murder, but I was uncomfortable enough being called a liar—and was surprised when the letter arrived from HPD one afternoon last May, containing no mention of the failed polygraph at all. There were simply regrets that I had failed to meet "minimum criteria for acceptance due to Self-Admission and Narcotics Usage."

What the hell? I called recruiting and demanded an explanation. What narcotics usage? I wanted to know. Self-admission of what? First, the lady said she couldn't discuss the letter "due to confidentiality." Then she set me up with Lt. Rusinski.

In a small, white room where confessions are made, Rusinski said it was the matter of the girl and the hash.

The girl and the hash? But my life is more than that!

"I don't know how to mitigate those two issues," Rusinski said, and suggested I take the matter up with the appeals board.

Trying to gather evidence for my appeal, I asked the cops for the recording of my polygraph test. The application said I had the right to review it, and Lisa Tharappeo in the polygraph department acknowledged that right, but said I would have to follow the process—"due process," she said. "We can't just give these records out to anyone."

"But I'm the party involved!"

"Yes," she said, "but you have to follow the process."

A few weeks later, without having followed the damned process, I sat in the recruiting lobby across from the poster that says, "Stand up. You will never stand alone." I stood up and walked alone to meet the appeals board.

In a small room was a long table and nine stony faces turned toward me. I had paper and pen now and wanted to know who they were, but only the man at the head of the table would give his name. "Well, sir," said Capt. Rick Bounds, "this isn't an inquisition on us." Proceed.

I felt like Candide in a Kafka story. I told them how hopeful I'd been of becoming a cop, how hard I'd tried to be truthful.

They asked about the girl and the hash.

Good grief, I said. I never meant to make out with a 13-year-old girl. And I was a kid with the hash. I was practically a kid in both cases. Why not do a background check? Why not a drug test? Are there no officers on the force with similar experiences? How is this right? How is it fair?

But one of the men just shook his head, and Bounds said not a word. Two weeks later, I got another form letter and began to understand what better candidates know all along—that a good cop always remains silent.

Randall Patterson continues as a freelance writer in Houston.

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