



Advocates For Change
PO Box 103392
Denver, CO 80250
720-329-9096
advocates4changeafc@gmail.com

Polygraph (“Lie Detection”): Taxpayer-Funded Pseudoscience

Background

Polygraph testing is a major component of Colorado's Sex Offender Management Board's (SOMB) adult and juvenile standards and guidelines. These same standards and guidelines allow for the use of polygraph testing with juveniles as young as 14 years of age (minimum functional age equivalency of 12 years) and those adults and juveniles categorized as intellectually and developmentally disabled. Polygraph is one side of the high-priced Containment Model triangle.

In 2016, the Legislature statutorily mandated (HB16-1345), that the SOMB incorporate the concepts of the Risk-Need-Responsivity (RNR) Model (or another evidence-based correctional model), and the recommendations of the 2014 independent evaluator's report of the SOMB's standards and guidelines, in the rewrite of those same standards and guidelines. The SOMB's current and prescriptive use of polygraph testing, in its standards and guidelines, is not supported by the principles of RNR, or in agreement with the recommendations made by the independent evaluator.

Key Facts

- **Financial Cost:** From FY2010 through FY2016, the state of Colorado spent more than \$4.7M* on polygraph testing for adults and juveniles incarcerated for the commission of a sex offense, and those under supervision (parole and probation) deemed unable to pay for the polygraph.
- **Expenditure Note:** This does not include FY2010-FY2015 polygraph expenditures for DOC / Parole or FY2010-FY2016 polygraph expenditures for DHS / Division of Youth Corrections. The information has been requested from the agencies.
- **Legal Admissibility:** Evidence of polygraph test results and the testimony of polygraph examiners are per se inadmissible in both criminal and civil trials. This is supported by cases such as *People v. Anderson*, 637 P.2d 354, 362 (Colo. 1981) (criminal case) and *In re Marriage of McCaulley-Elfert*, 70 P. 3d 590, 594 (Colo. App. 2003) (dissolution of marriage). In *People v. Anderson*, the court stated, "We do not believe that the

physiological and psychological bases for the polygraph examination have been sufficiently established to assure the validity and reliability of test results."

- **Effectiveness:** In July 2015, Colorado's Office of Domestic Violence and Sex Offender Management Program Manager, Christopher Lobanov-Rostovsky, stated in a U.S. Department of Justice Sex Offender Management Assessment and Planning Initiative (SOMPAI) Research Brief, "However, in a study conducted by McGrath and colleagues (2007), no significant differences in sexual recidivism between polygraphed and non-polygraphed sex offenders were found." This refers to a study by McGrath, R.J., Cumming, G.F., Hoke, S.E., & Bonn-Miller, M.O. (2007). The brief can be found at <https://www.smart.gov/pdfs/AdultSexOffenderManagement.pdf>.

Bad policy is costly.