

HANDOUT FOR THE CO HOUSE JUDICIARY COMMITTEE 5/25/21

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Link to SOMB study: <https://www.researchgate.net/publication/350753936>

INDIVIDUALIZATION and THE THERAPEUTIC RELATIONSHIP

The American Psychological Association EBPP (Evidence Based Practice in Psychology) policy also expands its description of the patient's role, stating that **“psychological services are most effective when responsive to the patient's specific problems, strengths, personality, sociocultural context, and preferences”** (APA/American Psychologist, 2006).

“In order to continue our advances forward, our field must continue to consider the individualized needs of individuals in treatment or under supervision – in keeping with both the RNR framework and the need to be culturally sensitive... Responsivity Principle that emphasizes... that individual differences require an individualized approach.”

Dr. Robin J. Wilson, written response to Committee

POLYGRAPHS

“Most psychologists and other scientists agree that there is little basis for the validity of polygraph tests” American Psychological Association, *The Truth About Lie Detectors* (aka Polygraph Tests) [<https://www.apa.org/research/action/polygraph>]

“Because the results of a polygraph test can mean many things and are so unreliable in detecting actual lies, they do not rise to the level of reliability required for scientific evidence in a courtroom and polygraph test results are usually inadmissible as evidence.”

Is a Polygraph Test Admissible as Evidence?

HG Legal Services, 2021

[<https://www.hg.org/legal-articles/is-a-polygraph-test-admissible-as-evidence-31737#>]

“The description in this chapter of factors affecting validity and potential countermeasures suggests that there is a great deal more to understand about polygraph tests before one can be assured of their validity... For policy purposes, clearly such distinctions and a sense of the magnitude of false decisions is needed. Substantial research, beyond what is currently available, would have to be conducted in order to answer such questions.”

Scientific Validity of Polygraph Testing: A Research Review and Evaluation (Princeton University) [<https://www.princeton.edu/~ota/disk3/1983/8320/832008.PDF>]

PLETHMYSOGRAPHY

Penile Plethysmography Testing for Convicted Sex Offenders

U.S. v. Weber, 451 F.3d 552 (9th Cir. 2006)

“The court viewed penile plethysmography as an intrusive procedure, both physically and psychologically, likening the procedure to a device from a George Orwell novel. The court utilized a standard of review involving tests that are “nonroutine manipulative intrusions on bodily integrity... the court concluded that the level of accuracy of penile plethysmography reported in the scientific literature is low and that the test's true validity is academically controversial...”

Journal of the American Academy of Psychiatry and the Law Vol. 35, Issue 4 Dec.2007

“...the results of such testing mean very little in a courtroom setting as they cannot be admitted into evidence and are merely used for probative value... Currently, the few jurisdictions aside from the Fourth Circuit that still impose penile plethysmograph testing use some form of heightened scrutiny... Though no case has come before the Supreme Court to decide this issue, given the strong weight of evidence against penile plethysmograph testing, the Fourth Circuit’s deference to judicial discretion without some sort of heightened review is not a strict enough standard to reasonably impose testing as a condition of supervised release.”

Lindsay Blumberg, 2018

William & Mary Journal Of Women and the Law Vol. 24:593

[<https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1480&context=wmjowl>]

RECIDIVISM RATE OF SEX OFFENDERS

NOTE: A widely report recidivism rate among sex offenders of 88% originated by a US Supreme Court judge has no basis in fact.

Did the Supreme Court base a ruling on a myth? New York Times, A. Liptak, 2017

“The average sexual recidivism rate based on an average follow-up period of 46 months was 12.3 percent for treated sex offenders and 16.8 percent for untreated sex offenders. The average overall recidivism rate was 27.9 percent for treated sex offenders and 39.2 percent for untreated sex offenders.” From DOJ report from the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) 2015

From a 2015 essay in the journal *Constitutional Commentary*:

Arizona State University law professor Ira Ellman describes a meta-analysis of nearly 8,000 offenders ranked as high, medium and low risk. About 95 percent in the low-risk

category “were still offense-free after 15 years,” Ellman reported. Those in the high risk category (about one-fourth of the total) committed new sex offenses at significantly higher rates — 20 percent within five years and 32 percent within 15 years. That’s bad news, but it also suggests the legal system does in fact have the tools to rectify what Matsch cites as a “fundamental flaw” in Colorado: the lack of an individualized assessment.

OFFENDER REGISTRIES

The registries and related policies “are absolutely and fundamentally flawed. They do nothing to support prevention, are not a deterrent and do nothing for people who have survived sexual violence,” said Prof. Alissa Ackerman of California State University Fullerton, a criminologist and national expert on the treatment of sex offenders.

<https://ctmirror.org/2018/05/21/sex-offender-registry-harm-good/>

In 2015 the Connecticut Sentencing Commission, at the behest of the General Assembly, began a lengthy examination of Connecticut’s “system of assessment, management, treatment, and sentencing of sex offenders.” The registry and laws such as child protection zones are based on a set of assumptions that research indicates are highly questionable or outright false. The Sentencing Commission’s 204-page report calls them “myths.”

They include:

Nearly all sex offenders reoffend.

Treatment does not work.

The concept of “stranger danger” — that most sexual assaults are the work of people unknown to the victims.

“Research does not support these myths, but there is research to suggest that such policies may ultimately be counterproductive,” the commission’s report says.

<http://ctsencingcommission.org/wp-content/uploads/2018/05/2015AnnualReport.pdf>
