

Informational Brief: The Use of the Polygraph with Juveniles Who Have Engaged in Sexually Abusive Behavior



ATSA Adolescent Practice Guidelines

In 2017, the Association for the Treatment of Sexual Abusers (ATSA) published the *Practice Guidelines for Assessment, Treatment and Intervention with Adolescents Who Have Engaged in Sexually Abusive Behavior*. The *Practice Guidelines* provide guidance to practitioners and others who work with adolescents who have sexually abused or are at risk to abuse.

Practice Guideline Regarding the Use of Polygraph

The *Adolescent Practice Guidelines* recommend against the use of polygraph with juveniles.

Basis of the Recommendation

There are significant limitations to the body of research related to the use of polygraph for adolescents who have engaged in sexually abusive behavior. Further, there is no available research that suggests the use of the polygraph in assessment or treatment with juveniles reduces the risk for sexual recidivism or addresses the efficacy of polygraph examinations in enhancing treatment goals and outcomes. The polygraph is designed for use with adults. There are no established norms for its use with adolescent populations, and its use may be coercive and potentially harmful to young people. Indeed, the polygraph is not regularly used outside of the United States, and some countries have banned the use of the polygraph with minors.

Implications for Practice

ATSA members agree to abide by the *Adolescent Practice Guidelines* and integrate them into all practice and programmatic decision-making. As with all professional guidelines, the purpose is to provide guidance with respect to practice. Members state their commitment to the guidelines but the guidelines do not necessarily reflect or replace local and/or applicable statutes, provisions, requirements, and other standards that may govern or shape practice. The *Guidelines* require practitioners “to take steps to achieve an appropriate resolution in cases where a conflict between these guidelines and legal and professional obligations occur.”

Appendix: Foundational Research

ATSA considered the available research in developing the *Adolescent Practice Guidelines*. A partial bibliography of publications, summarized where possible, addressing the use of the polygraph with juveniles is attached as an Appendix, and provides different perspectives regarding the use of the polygraph with juveniles.

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**Appendix:
Bibliography (with abstract/summaries where available)**

ATSA considered the available research in developing the ATSA *Adolescent Practice Guidelines*. Specific to the recommendation against the use of the polygraph, ATSA considered the following publications (with abstracts or summaries, where available):

Barnes, N. R. (2008). The polygraph and juveniles: Rehabilitation or overreaction? A case against the current use of polygraph examinations on juvenile offenders. *University of Toledo Law Review*, 39, 669–692.

Summary. A second problem stemming from the use of polygraph examinations is that punishment may result from inaccurate polygraph results. ... the examiner assumes that deception to the question about shooting provoked involuntary automatic processes that caused the observed difference in the reactions. ... Courts interpret the first Daubert factor - testing - as militating against admissibility of polygraph results. ... Nonetheless, juveniles are susceptible to the same court-ordered polygraph treatments for rehabilitative purposes and punitive consequences that follow an alleged untruthful result, even though polygraph examinations of juveniles present more variables creating uncertainty than adult examinations. ... This acceptance is problematic, especially when only one of six premier child polygraph experts surveyed said that it was acceptable to use the polygraph on a child under the age of twelve. ... Since existing research does not support the assertion that juvenile sex offenders are more similar to adult sex offenders than to other juvenile delinquents, courts should follow the analysis set forth by the Supreme Court of Ohio and refuse to universally permit the use of polygraphs as an acceptable condition for the rehabilitation of juvenile offenders.

Becker, J.V., & Harris, C. (2004). The psychophysiological assessment of juvenile offenders. In: O'Reilly, G., Marshall, W.L., Carr, A., Beckett, R.C. (Eds.), *The handbook of clinical intervention with young People who sexually abuse* (pp. 191–202). NY: Psychology Press, Taylor and Francis Group.

Chaffin, M. (2011). The case of juvenile polygraphy as a clinical ethics dilemma. *Sexual Abuse: A Journal of Research and Treatment*, 23, 314–328.

Abstract. Polygraph interrogations are used by half of all surveyed juvenile sex offender (JSO) treatment programs in the United States. This is a distinctive and controversial practice that is rarely if ever used with other juvenile delinquent populations, and that is rarely used or is banned from JSO treatment programs in other countries. Clinical polygraphy is an ethically sensitive issue because it involves mental health therapists in involuntary coercive interrogations of minors. This article reviews core mental health professional ethics principles for juveniles. JSO polygraphy is used as an illustrative

issue for applying human rights principles to a practice in light of its benefits, risks, and available alternatives.

Craig, R. A., & Molder, C. (2003). The use of law enforcement polygraph tests with juveniles. *The Journal of Credibility Assessment and Witness Psychology, 4*, 63-74. Department of Psychology of Boise State University.

Abstract. Law enforcement polygraph examiners responded to a survey regarding their use of the polygraph with juveniles, types of test and special procedures used, and any perceived limitations in using the test with this population. The results indicate that polygraph tests are administered to juveniles in a variety of law enforcement contexts. Many examiners express concern over testing juveniles below age twelve. A majority of the examiners make no modifications when testing juveniles. However, several reported specific limitations in using the polygraph with juveniles under a certain age. Of greatest concern regarding the use of the polygraph with juveniles was the potential limitation related to the development of cognitive abilities and sustained attention. While the polygraph is being used with juveniles, little research exists regarding its use with this population. There is a critical need to further explore the validity of the polygraph with this population.

Emerick, R. L., & Dutton, W. A. (1993). The effect of polygraphy on the self-report of adolescent sex offenders: Implications for risk assessment. *Annals of Sex Research, 6*, 83–103.

Abstract. The present study examined three sources of assault history information for seventy-six "high risk" adolescent sexual offenders: collateral (victim statements, police reports, psychological examinations, etc.), clinical interviews, and confirmation polygraph testing. Chi Square analysis revealed significant differences between data retrieved by use of clinical polygraph examination and both of the other data sources. Selected assault history variables assumed to be relevant for pre-treatment decision making and for which significant differences were observed, include: number of victims, process of victim selection, degree of force used in the commission of offenses, use of pornography, and degree of intrusion. The number of female child victims assaulted by the offenders was demonstrated to be significantly related to the severity of pornography used as a stimulus while masturbating. These findings are discussed in terms of pre-treatment decision making and implications for future study of adolescent sexual offenders.

Hindman, J., & Peters, J. M. (2001). Polygraph testing leads to better understanding adult and juvenile sex offenders, *Federal Probation, 65* (8), 8-15.

Hunter, J.A. & Lexier, L.J. (1998) Ethical and Legal Issues in the Assessment and Treatment of Juvenile Sex Offenders. *Child Maltreatment, 3*, 339-349.

Abstract. Although a rapidly growing field, the evaluation and treatment of juvenile sexual offenders represents an area of practice fraught with clinical, ethical, and legal complexity. This article discusses the implications of new registration and community notification legislation for clinical practice, including the ethical issues they give rise to and the challenges they present to the field. Areas of clinical practice that are controversial and increase practitioner vulnerability to ethical and legal mishap are reviewed, including: involuntary

treatment, pre-adjudication evaluation, phallometric and polygraph assessment, and cognitive-behavioral and psycho-pharmacological treatment of deviant sexual arousal. Recommendations are made as to the management of these issues and the establishment of ethically sound patterns of clinical practice.

Jensen, T. M., Shafer, K., Roby, C. Y., & Roby, J. L. (2015). Sexual history disclosure polygraph outcomes: Do juvenile and adult sex offenders differ? *Journal of Interpersonal Violence, 30*, 928–944.

Abstract. Despite the empirical and theoretical chasm between the opponents and proponents of polygraphy, its use is prominent among sex offender agencies in the United States. However, current research on polygraph examination outcomes among juvenile sex offenders, along with potential differences from their adult counterparts, is scarce and outdated. In the present study, we assess the difference between juvenile and adult sex offenders in terms of the propensity for passing a sexual history disclosure polygraph examination. A sample of 324 sex offenders (86 juveniles and 238 adults) who engaged in a sexual history disclosure polygraph examination as part of their treatment in an Intermountain West sex offender treatment agency was used for the analysis. Results from preliminary and logistic regression analyses indicate that juvenile and adult offenders do not significantly differ in the likelihood of passing a sexual history disclosure polygraph examination. Implications and limitations are discussed.

Letourneau, E.J., & Miner, M.H. (2005). Juvenile Sex Offenders: A Case against the Legal and Clinical Status Quo, *17 Sexual Abuse: J. Res. & Treatment 293, 295*

Abstract. The past two decades have seen a movement toward harsher legal sanctions and lengthy, restrictive treatment programs for sex offenders. This has not only been the case for adults, but also for juveniles who commit sex offenses. The increased length and severity of legal and clinical interventions for juvenile sex offenders appear to have resulted from three false assumptions: (1) there is an epidemic of juvenile offending, including juvenile sex offending; (2) juvenile sex offenders have more in common with adult sex offenders than with other juvenile delinquents; and (3) in the absence of sex offender-specific treatment, juvenile sex offenders are at exceptionally high risk of reoffending. The available data do not support any of the above assumptions; however, these assumptions continue to influence the treatment and legal interventions applied to juvenile sex offenders and contributed to the application of adult interventions to juvenile sex offending. In so doing, these legal and clinical interventions fail to consider the unique developmental factors that characterize adolescence, and thus may be ineffective or worse. Fortunately, a paradigm shift that acknowledges these developmental factors appears to be emerging in clinical areas of intervention, although this trend does not appear as prevalent in legal sanctions.

Prescott (2012). What do young people learn from coercion? Polygraph examinations with youth who have sexually abused. *ATSA Forum Newsletter, XXIV(2)*. Spring 2012.

Rosky, J. (2012). The (f)utility of post-conviction polygraph testing. *Sexual Abuse: A Journal of Research and Treatment, 25*, 259-281.

Abstract. The apparent utility of the polygraph to work both as a treatment and supervision aid and as a deterrent for future offending is cited as ample justification for its use. This article examines these claims to demonstrate that although post-conviction polygraph testing may have some utility by increasing disclosures of prior offending and, within specific cases, admissions of treatment and supervision violations, the limited evidence accumulated thus far does not adequately ascertain its accuracy nor support its efficacy or effectiveness as a deterrent. The article concludes with recommendations for creating a real evidentiary base beyond polygraph testing's apparent ability to elicit more information from offenders to evidence that can determine whether it is efficacious and effective in reducing criminality and deviance.

Schenk, A. M., Cooper-Lehki, C., Keelan, C. M., & Fremouw, W. J. (2014). Underreporting of bestiality among juvenile sex offenders: Polygraph versus self-report. *Journal of Forensic Sciences*; 59, 540-542.

Abstract. Juvenile sex offenders (JSO) are a specific subset of delinquent adolescents that are receiving more attention because of the crimes they commit and the issues surrounding how to successfully treat their deviant behaviors. Given JSO are such predominant treatment concerns in society, it is essential to identify and target key risk factors. One sexual behavior, bestiality, may be of particular importance to address in treatment. In a meta-analysis conducted by Seto and Lalumiere, a 14% rate of bestiality among JSO was reported. This current study examined the differences in JSO ($n = 32$) who admitted bestiality based upon a self-report measure, the Multiphasic Sexual Inventory-II (MSI-II), compared to information elicited by polygraphs. The results indicated extensive underreporting of bestiality behaviors between these two sources of information (MSI-II = 37.5%; polygraph = 81.25%). These findings are important given the reliance treatment programs place on information elicited from self-report tools.

Stern, P. (2015). *An empirically based approach for prosecuting juvenile sex crimes*. Washington, DC: Association of Prosecuting Attorneys. Grant 2015-CI-FX-K004 awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs. Retrieved from: <http://www.ncsby.org/sites/default/files/apa-an-empirically-based-approach-for-prosecuting-juvenile-sex-crimes.pdf>

Stovering, J., Nelson, W. M., & Hart, K. J. (2013). Timeline of victim disclosures by juvenile sex offenders. *The Journal of Forensic Psychiatry & Psychology*, 24, 728–739.

Abstract. This study examined the number of victims disclosed by 12- to 17-year-old male, adjudicated juvenile sex offenders over the course of their mandated sex offender treatment program. Records were reviewed to ascertain the number of unique victims disclosed at each of four time periods: Adjudication, Assessment/Education phase (first day of treatment until polygraph), at the Polygraph Examination, and Continued Treatment (from after the polygraph until discharge). Results indicated a statistically significant increase in victims disclosed over those periods, representing a mean of 2.39 additional victims ($SD = 3.50$), with the greatest number of additional victims being reported during the Assessment/Education phase (prior to the polygraph). Notably, not all of the juvenile sex offenders reported additional victims;

during the period of the highest disclosure (Time 2), 58.11% reported additional victims whereas polygraph examination resulted in disclosure by only one offender. These findings are somewhat different from previous studies and the results are discussed with reference to previous findings.

Van Arsdale, A., Shaw, T., Miller, P., & Parent, M. C. (2012 Spring). Polygraph testing for juveniles in treatment for sexual behavior problems: *OJJDP Journal of Juvenile Justice*, 1 (2), 68-79. Retrieved from <https://www.ncjrs.gov/pdffiles/238336.pdf>

Abstract. Post-adjudication polygraph testing for juveniles with sexual behavior problems remains controversial. This study investigated the impact of polygraph testing in a sample of 60 adolescent males participating in specialized outpatient treatment specific to this population. Polygraph testing resulted in a significant increase in the number of victims disclosed. The types of victims disclosed as a result of polygraph testing tended to be younger and male, compared with the types of victims disclosed before polygraph testing. There was a non-significant trend toward proportionately more disclosure of extra-familial victims during polygraph testing than before. In addition, a substantial proportion of participants revealed sexual contact with same-age peers that they had previously not disclosed during the course of treatment. Results suggest that polygraph testing may be used to gain additional information and potentially help to inform specialized treatment.