

Model Policy for Post-Conviction Sex Offender Testing

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1. Model Policy. This Model Policy should be considered a description of recommended best-practices for polygraph professionals who engage in post-conviction sex offender testing (PCSOT) activities. This Model Policy is intended to provide a basis for local programs developing or updating their PCSOT regulations, and does not attempt to address all aspects of PCSOT programming or policy implementation at the local level.
 - 1.1. Compliance and local authority. Examiners should be responsible for knowing and adhering to all legal and regulatory requirements of their local jurisdictions. In case of any conflict between the Model Policy and any local practice requirements, the local regulations should prevail. Examiners who work in jurisdictions and programs without local regulations should refer to this Model Policy as a guide.
 - 1.1.1. Compliance with this Model Policy. Although this Model Policy should be considered non-binding and not enforceable by the APA or any local jurisdiction, examiners whose work varies from the recommendations of this Model Policy should be prepared to provide justification for doing so.
 - 1.1.2. Compliance with professional standards. Unless prohibited by law, regulation or agency policy, all members of the American Polygraph Association (APA) shall comply with the APA Standards of Practice. Additionally, all examiners should be responsible for knowing and adhering to standards of ASTM International.
 - 1.2. Periodic review and modification. This Model Policy should be reviewed and amended periodically in order to remain consistent with emerging information from new empirical studies.
2. Evidence-based approach. To the extent possible, this Model Policy relies on knowledge and principles derived from existing research pertaining to polygraph testing, risk assessment, risk management, and sex offender treatment. Examiners should be cautious of field practices based solely on a system of values or beliefs. Some elements of this Model Policy are intended to increase professionalism and reliability among field examiners through the implementation of standardized field practice recommendations in the absence of data from empirical studies.
 - 2.1. Face-valid principles. When an evidence-based approach is not possible, the Model Policy emphasizes face-valid principles pertaining to polygraph testing, field investigation principles and related fields of science. These include psychology, physiology, mental health treatment, forensic threat assessment, signal detection, decision theory, and inferential statistics.
 - 2.2. Evolving evidence. In the event that evidence from future empirical studies reveals the practice recommendations of this Model Policy are inconsistent with empirically based evidence, the evidence-based information should prevail.
3. PCSOT program goals. The primary goal of all PCSOT activities should be to increase public safety by adding incremental validity to risk-assessment, risk-management, and treatment-planning decisions made by professionals who provide supervision and sex-offense specific treatment to convicted sex offenders in community settings.

- 3.1. Containment approach. Examiners who engage in PCSOT activities should emphasize a multi-disciplinary or multi-systemic containment approach to the supervision and treatment of sex offenders. This approach involves a collaborative effort among professionals from varying disciplines and systems including treatment providers, supervising officers, polygraph examiners, medical and psychiatric professionals, child-protection/family-services workers, and other professionals.
- 3.2. Operational objectives. Any or all of the following operational objectives should be considered a reasonable and sufficient basis to engage in PCSOT activities:
 - A. Increased disclosure of problem behavior that will be of interest to professionals who work with convicted sex offenders;
 - B. Deterrence of problem behavior among convicted sex offenders by increasing the likelihood that engagement in such behaviors will be brought to the attention of supervision and treatment professionals; and
 - C. Detection of involvement in or abstinence from problem behavior that would alert supervision and treatment professionals to any escalation in the level of threat to the community or potential victims of sexual abuse.
4. Decision-support. Psychophysiological Detection of Deception (PDD) (polygraph) testing of convicted sex offenders should be regarded as a decision-support tool intended to assist professionals in making important decisions regarding risk and safety. Polygraph testing should not replace the need for other forms of behavioral monitoring or traditional forms of supervision and field investigation.
 - 4.1. Professional judgment. Polygraph testing and polygraph test results should not supplant or replace the need for professional expertise and judgment. Polygraph test results should not be used as the sole basis for revocation of any individual from court supervision or termination of sex offense specific treatment.
 - 4.2. Successive hurdles approach. Examiners should use a successive hurdles approach to testing to maximize both the informational efficiency and sensitivity of multi-issue (mixed-issue) screening polygraphs and the diagnostic efficiency and specificity of event-specific single-issue exams. The term screening, as it applies to PCSOT, is based on the fact that some exams are conducted for exploratory purposes in the absence of known allegations or known incidents. Follow-up examinations should employ a single-issue technique whenever increased validity is required to resolve an issue. Successive-hurdles may include following an unresolved mixed-issue polygraph test with additional attempts to resolve the issue(s), including posttest discussion, additional field or background investigation, or additional polygraph testing. Follow-up examinations may be completed on the same date as the initial exam, or they may be scheduled for a later date.

- 42.1. Multi-issue (mixed-issue) exams. Examiners should use multi-issue polygraph techniques only in the absence of a known incident, known allegation, or a particular reason to suspect wrongful behavior. Exploratory exams may at times be narrowed to a single target issue of concern. However, most exploratory exams involve multiple target issues in which it is conceivable that a person could lie about involvement in one or more issues while being truthful or uninvolved in the other issues of concern.
 - 42.2. Single-issue exams. Examiners should use single issue polygraph techniques for follow-up exams conducted in response to a previously unresolved exploratory exam. Event specific diagnostic/investigative exams, conducted in response to known allegations or known incidents for which there is reason to suspect the involvement of the examinee, may be formulated as multi-facet tests with questions pertaining to several behavioral roles or aspects of a single known allegation.
 - 42.3. Multi-facet tests. Event specific diagnostic/investigative exams, conducted in response to known allegations or known incidents for which there is reason to suspect the involvement of the examinee, may be formulated as multi-facet tests with questions pertaining to several behavioral roles or aspects of a single known allegation.
- 43. Confidentiality and mandatory reporting. Except as provided by law, information from the polygraph examination and test results (outcomes) should be kept confidential and provided only to those involved in the containment approach to the supervision and treatment of sex offenders.
 - 43.1. Examiners are not mandated reporters. Examiners should not engage in mandatory child-abuse reporting activities except where required by law (i.e., whenever polygraph examiners are named or listed in statutes describing mandatory reporting requirements).
 - 43.2. Other professionals and mandatory reporting. Examiners should remain aware that other professional members of the multi-systemic containment team will likely be subject to mandatory child-abuse reporting or other mandatory disclosure requirements.
- 5. General principles. Examiners who engage in PCSOT activities should adhere to all of the generally accepted principles that pertain to polygraph testing, including, but not limited to the following:
 - 5.1. Rights and dignity of all persons. Examiners should respect the rights and dignity of all persons to whom they administer polygraph examinations.

- 5.2. Polygraph examiner as part of the supervision and treatment team. Examiners should consider themselves to be an integral part of the multi-disciplinary supervision and treatment team. Contact with supervision and treatment team should be frequent, though contact with an examinee will be periodic (i.e., the examiner will not maintain routine contact with the examinee between examinations).
- 5.3. Non-interference with ongoing investigations. Examiners who engage in PCSOT activities should not interfere with or circumvent the efforts of any open or ongoing investigation of a new criminal allegation.
- 5.4. Known and unknown allegations. Examiners who engage in PCSOT activities should investigate and attempt to resolve, if possible, known allegations and known incidents before attempting to investigate or resolve behavioral concerns that do not involve a known allegation or known incident.
- 5.5. Confirmatory testing. PCSOT activities should be limited to the Psychophysiological Detection of Deception (PDD). Confirmatory testing approaches involving attempts to verify truthfulness of partial or complete statements made subsequent to the issue of concern should not be utilized in PCOST programs. Truthfulness should only be inferred when it is determined that the examinee has not attempted to engage in deception regarding the investigation targets.
- 5.6. Ethical and professional roles. Examiners who possess multiple types of credentials (i.e., examiners who are also therapists, probation officers, or police officers) should be limited to one professional role with each examinee and should not conduct polygraph examinations on any individual whom they directly or indirectly treat or supervise.
- 5.7. Number and length of examinations. Examiners should not conduct more than five examinations in a single day, they and should not conduct more than three sexual history disclosure examinations in a single day.
 - 5.7.1. Length of examination. Examiners should not plan to conduct examinations of less than 90 minutes in duration from the start of the pretest interview through the end of the post-test interview. Examiners should not conduct a complete polygraph examination in less than 90 minutes absent exigent circumstances such as when an examinee is not suitable for testing, an examinee refuses to continue with the examination, or when the issue under investigation is resolved prior to collection of data.
 - 5.7.2. Number of exams per examinee. Examiners should not conduct more than four separate examinations per year on the same examinee except where unavoidable or required by law or local regulation. This does not include re-testing due to a lack of resolution during an initial or earlier examination.

- 5.8. Examination techniques. Examiners should use a recognized comparison question technique for which there is evidence of validity and reliability, including estimates of sensitivity and specificity, published in the *Polygraph* journal or a peer-reviewed scientific journal. There should not be more than four (4) relevant questions per test series.
6. Operational definitions. Examiners should ensure that every behavior of concern to the multi-disciplinary supervision and treatment team will be anchored by an operational definition that describes the behaviors of concern. Operational definitions should be common among all referring professionals, and should use language that is free of vague jargon. It should be easily understood by the examinee. Examples of operational definition include the following:
- A. Physical sexual contact: refers to rubbing or touching another person's sexual organs (i.e., breasts, buttocks, genitalia) whether over or under clothing, if for the purpose of sexual arousal, sexual gratification, sexual stimulation or sexual "curiosity." This includes having, allowing, or causing another person to rub or touch one's own sexual organs, whether over or under clothing, for purposes of sexual arousal, sexual gratification, sexual "curiosity," or sexual stimulation. This does not include parental contact with children's private areas in the form of diapering, wiping, bathing, dressing, or changing, unless done for the purpose of sexual arousal or stimulation.
 - B. Sexual contact: includes the above definition, and also includes non-contact sexual behaviors such as exhibitionism, voyeurism, public masturbation, child-pornography, or other non-contact sexual behaviors.
 - C. Force (real or implied violence): includes any form of real or implied violence; physical restraint to prevent a victim from leaving, escaping or moving away from the assault; or threats of harm against a victim's family members or pets.
 - D. Coercion (non-violent): includes any non-violent means of gaining the compliance of a victim who expresses his or her reluctance to comply (e.g., bribery, threats to end a relationship, etc.).
 - E. Grooming (child grooming): includes any means of building trust or exploiting a relationship such that a victim tolerates an offense with a perception of complicity.
 - F. Manipulation: includes any means of trickery to gain the compliance of a victim who is unaware of the sexual motives of the offender (e.g., wrestling, horseplay, tickling or other trickery).
 - G. Relative (family member): includes aunts, uncles, nieces, nephews, children, grandchildren, parents, grandparents, brothers, sisters, cousins, or any person related by blood, marriage, or adoption, or where a relationship has a legal relationship or the appearance of a family relationship (e.g., a dating or live-in relationship with the person(s) natural, step or adoptive parent).
 - H. Minor, child, youth, underage person: refers to anyone who has not yet reached the age of majority or adulthood (usually 18). Adolescence, though it refers to older/teenage children, is included in this broad category.

- I. Incidental contact: refers to any brief or unanticipated contact, typically concerning minors, including any greeting (e.g., waving, or smiling), interaction (i.e., verbal), or incidental physical contact (e.g., shaking hands, hugging, patting the head, bumping into, exchanging money or merchandise, etc.).
 - J. Physical contact: includes shaking hands, hugging, patting the back or head, bumping into, exchanging money or merchandise along with other forms of physical contact including sitting on one's lap, holding, wrestling or athletic activities, etc.
 - K. Alone or unsupervised with minors: refers to any contact or activity with minors in a location where one cannot be seen or heard, and where others are not aware of one's presence or activity with a minor, and in which the activity cannot be monitored or observed.
 - L. Pornography: refers to the explicit depiction of sexual subject matter for the sole purpose of sexually arousing the viewer, sometimes referred to as X-rated or XXX material, though there is no formal rating system that includes these designations. Minors cannot purchase pornographic materials in most, if not all, jurisdictions.
 - M. Sexually stimulating materials/erotica: refers to the use of sexually arousing imagery, especially for masturbation purposes.
 - N. Sexual fantasy/erotic fantasy: refers to a deliberate thought or patterns of thoughts, often in the form of mental imagery, with the goal of creating or enhancing sexual arousal or sexual feelings. Sexual fantasy can be a developed or spontaneous story, or a quick mental flash of sexual imagery, and may be voluntary or intrusive/involuntary.
 - O. Masturbation: refers to sexual stimulation of one's genitals, often, though not always, to the point of orgasm. Stimulation can be over or under clothing, either manually or through other types of bodily contact, through the use of objects or devices, or through a combination of these methods. Although masturbation with a partner is not uncommon, masturbation for the purpose of this Model Policy refers to self-masturbation.
7. Examination questions. Examiners should have the final authority and responsibility for the determination of test questions and question language, which must be reviewed with the examinee. Examiners should advise the supervision and treatment professionals to refrain from informing the examinee of the exact test questions and investigations targets, or coaching the examinee in the mechanics, principles or operations of the polygraph test. Technical questions about polygraph should be directed to the examiner at the time of the examination. Examiners should advise community supervision team members and treatment professionals that it is appropriate to inform the examinee of the purpose or type of each examination.
- 7.1. Relevant questions. Relevant questions should pertain to a single frame of reference, which refers to the type of PCSOT examination. (See section 8.)

7.1.1 Content. Relevant questions should address behaviorally descriptive topical areas that have a common time of reference, which refers to the time-period under investigation. Content should bear operational relevance to actuarial or phenomenological risk assessment, risk management and treatment planning methods. Examiners should exercise caution to ensure they do not violate any rights of examinees regarding answering questions about criminal behaviors.

7.1.2 Structure. Relevant question construction should be...

- A. answerable by a “NO” without unnecessary mental exercise or uncertainty; and
- B. behaviorally descriptive of the examinee’s direct or possible involvement in an issue of concern and, whenever possible, not indirectly addressing that issue by targeting a subsequent denial of it;
- C. simple, direct and easily understood by the examinee;
- D. time-delimited (date of incident or time of reference);
- E. free of assumptions of guilt or deception;
- F. free of idiosyncratic jargon, legal terms; and
- G. free of references to mental state or motivational terminology except to the extent that memory or sexual motivation may be the subject of an examination following an admission of behavior.

7.2. Comparison questions. Comparison questions should meet all common requirements for the type comparison question being applied.

7.2.1. Content. Comparison questions should address broad categorical concerns regarding honesty and integrity and should not be likely to elicit a greater physiological response than deception to any relevant question in the same test.

7.2.2. Structure. Comparison questions should be structurally separated from relevant questions by either frame of reference or time of reference. Nothing in this Model Policy should be construed as favoring exclusive or non-exclusive comparison questions.

8. Types of PCSOT examinations. Examiners should utilize five basic types of PCSOT examinations: instant offense exams, prior-allegation exams, sexual history disclosure exams, maintenance exams, and sex offense monitoring exams. These basic types of examinations provide both a frame of reference and a time of reference for each examination. Examiners should not mix investigation targets from different frames of reference (examination types) or times of reference within the structure of a single examination.

- 8.1. Instant offense exams. Examiners should use two basic types of examinations to investigate the circumstances and details of the instant offense for which the examinee was convicted: the Instant Offense exam and the Instant Offense Investigative exam. These exams should be conducted prior to victim clarification or reunification in order to reduce offender denial and mitigate the possibility of further traumatizing a victim. These circumstances might result when an offender has attempted to conceal the most invasive or abusive aspects of an admitted offense or whenever the multi-disciplinary community supervision team determines that accountability for the circumstances and details of the instant offense represent a substantial barrier to an examinee's engagement and progress in sex offense specific treatment.
- 8.1.1. Instant offense exam. Examiners should conduct the Instant offense (IO) exam as an event-specific polygraph for examinees who deny any or all important aspects of the allegations pertaining to their present sex offense crime(s) of conviction.
- 8.1.1.1. Instant offense – examination targets. Examiners, along with the other members of the community supervision team, should select the relevant investigation targets from the circumstances of the allegation that the examinee denies.
- 8.1.1.2. Instant offense – testing approach. Examiners should conduct this exam either as a single-issue or multi-facet event-specific exam. However, nothing in this Model Policy should be construed as to prohibit the completion of the Instant Offense exam in a series of single-issue exams when such an approach will lend to more accurate or satisfactory resolution of the investigation targets.
- 8.1.2. Instant offense investigative exam. Examiners should use the Instant Offense Investigative (IOI) exam to test the limits of an examinee's admitted behavior and to search for other behaviors or offenses not included in the allegations made by the victim of the instant offense. This examination should be completed prior to victim clarification or reunification.
- 8.1.2.1. Instant offense investigative – examination targets. Examiners, along with the other members of the community supervision team, should select relevant targets from their concerns regarding additional or unreported offense behaviors in the context of the instant offense. At the discretion of the examiner and the other professional members of the community supervision team, examination targets may include the following:
- A. Number of offense incidents against the victim: when the admitted number of offense incidents is very small.

- B. Invasive offense behaviors: when the examinee denies intrusive or hands-on offense behaviors against the victim of the instant offense.
- C. Degree of physical force or violence: when the examinee denies use of violence, physical restraint, threats of harm, or physical force against the victim of the instant offense.
- D. Other sexual contact behaviors: when not included in the allegations made by the victim of the instant offense, at the discretion of the community supervision team.

8.1.2.2. Instant offense investigative – testing approach. Examiners should conduct this exam as a multi-facet or multi-issue (mixed-issue) exploratory exam. However, nothing in this Model Policy should be construed as to prohibit the completion of the Instant Offense Investigative exam in a series of single-issue exams (i.e., in the absence of an allegation involving the behavioral examination targets) when that approach will lend to more accurate or satisfactory resolution of the investigation targets.

8.2. Prior allegation exam. Examiners should use the Prior Allegation Exam (PAE) to investigate and resolve all prior alleged sex offenses (i.e., allegations made prior to the current conviction) before attempting to investigate and resolve an examinee's history of unknown sexual offenses. This exam should be considered identical in design and structure to the Instant Offense Exam, except that the details of the allegation stem not from the present crime of conviction but from an allegation prior to the conviction resulting in the current supervision and treatment, regardless of whether or not the examinee was charged with the allegation. Examiners should exercise caution to ensure they do not violate any rights of an examinee regarding answering questions about criminal behaviors.

8.3. Sexual history exams I and II. Examiners should use two basic types of Sexual History examinations to investigate the examinee's history of involvement in unknown or unreported offenses and other sexual compulsivity, sexual pre-occupation, or sexual deviancy behaviors. Information and results from these examinations should be provided to the professional members of the supervision and treatment team to add incremental validity to decisions pertaining to risk assessment, risk management and treatment planning.

8.3.1. Sex history document. Examiners should work with the community supervision team to require that examinees complete a written sexual history document prior to the conduct of a sexual history polygraph. The sexual history document should provide operational definitions that unambiguously describe each sexual behavior of concern. The purpose of the document is to help examinees review and organize their sexual behavior histories. It aids in familiarizing examinees with the conceptual vocabulary necessary to accurately discuss sexual behaviors; it can assist examinees in recognizing sexual behavior that was abusive, unlawful, unhealthy, and identify behaviors that are considered within normal limits.

- 8.3.1.1. Prior review of the sex history document. Examiners should request that each examinee review the sexual history document with his or her community supervision team and treatment group prior to the examination date. The examiner does not need to review this document prior to the examination date, though the content should be reviewed thoroughly during the structured or semi-structured pretest interview.
- 8.3.1.2. Examiner authority. It should be the examiner's discretion to administer an alternative form of PCSOT examination if an examinee has not completed and reviewed the sexual history document prior to the examination date.
- 8.3.2. Sexual history exam I – unreported victims. Examiners should conduct the Sex History Exam I (SHE-I) to thoroughly investigate the examinee's lifetime history of sexually victimizing others, including behaviors related to victim selection, victim access, victim impact, and sexual offenses against unreported persons. These target issues provide a summary of the most tangible signal issues that provide interpretable information about victim-age, victim-profile, victim-selection, victim-control/access, and victim-silencing behaviors. SHE-I also provides information about the offender's capacity for grooming, sneakiness, violence, relationship-building and relationship-exploiting in addition to the capacity to offend in the absence of a relationship. Gathering information in these areas is additive to forensic risk assessment and risk management efforts. Ruling out matters in these SHE-I areas is also helpful as it allows the justification of a lower assumption of risk. What a person does or does not do (is capable of doing or not doing) to others is illustrated by past behavior. The best predictor of future behavior is past behavior.
- 8.3.2.1. Sexual history exam I – examination targets. Examiners, along with the other members of the community supervision team, should select investigation targets that provide operational relevance to actuarial and phenomenological risk/threat assessment protocols pertaining to recidivism, victim selection, and risk management decisions. Examples include the following:
- A. Sexual contact with underage persons, (refer to local statutes) including sexual contact with persons younger than age 15 while the examinee was legally adult, or sexual contact with persons 4 or more years younger than the examinee if the examinee is a juvenile.
 - B. Sexual contact with relatives, whether by blood, marriage, or adoption, or where a relationship has a legal relationship or the appearance of a family relationship (e.g., a dating or live-in relationship with the person(s) natural, step or adoptive parent).

- C. Use of violence to engage in sexual contact, including physical force/physical-restraint and threats of harm or violence toward a victim or victim's family members or pets through the use of a weapon or any verbal/non-verbal means.
- D. Sexual offenses against persons who appeared to be unconscious, asleep, or incapacitated, including touching or peeping against persons who were asleep, severely intoxicated, impaired due to drugs, or who were mentally/physically helpless for other reasons.

8.3.2.2 Sexual history exam I – time of reference. The time of reference for the Sex History Exam I may be restricted to the period of time prior to the current court supervision that mandated the present treatment when there are concerns about 1) potential differences in consequences for pre-treatment or pre-conviction acts and those acts occurring post-conviction or after treatment onset, or 2) examinee rights pertaining to the behavioral targets after conviction while under the supervision of a court or in a treatment program.

8.3.2.3 Sexual history exam I - testing approach. Examiners should conduct this examination as a multi-issue (mixed-issue) exploratory examination. However, nothing in this Model Policy should be construed as to prohibit the completion of the Sex History I Exam in a series of more narrowly focused exams when that approach will lend to more accurate or satisfactory resolution of the investigation targets.

8.3.3. General sexual history exam II – sexual deviancy, compulsivity, and preoccupation. Examiners should conduct this General Sex History (GSH) examination to thoroughly investigate the examinee's lifetime history of sexual deviancy, preoccupation, and compulsivity behaviors not including those behaviors described in the Sex History Exam I. This examination may be most important with examinees who substantially deny involvement in sexual deviancy, compulsivity and preoccupation behaviors. SHE-II issues are additive to risk-assessment/risk-management/treatment-planning, but in a different way than SHE-I issues. Actuarial risk researchers tell us that sexual deviancy/compulsivity/pre-occupation is also correlated with increased rates of recidivism and increased rates of failure under supervision and failure in sex-offense-specific treatment. SHE-II adds incremental validity to risk-assessment/risk-management/treatment-planning to the extent that it gathers information about involvement in sexual behaviors that are more often compulsive (large-numbers) such as peeping/voyeurism, exhibitionism, theft of undergarments, public masturbation, and child-pornography. The forensic challenge will be to differentiate no-involvement from minimal-involvement from high-involvement. Polygraph examiners should be cautious about attempting to test the limits of admitted sexual compulsivity or sexual preoccupation behaviors with the hope of somehow knowing *everything* or

every incident when an examinee admits to substantial involvement in the behavioral targets of concern. When an offender admits to being highly involved in these activities, there may be little to be gained from testing the limits of involvement: there is likely more, but it might not be remembered. It is not additive because the answer is already known: he or she is highly involved. Testing these behaviors is additive when an offender denies involvement or admits to only minimal involvement because confirming that will help justify an assumption of absence of compulsivity/deviancy/pre-occupation, which is correlated with an assumed lower level of risk.

8.3.3.1. General sexual history exam II - examination targets.

Investigation targets for the General Sexual History exam II should bear operational relevance to actuarial and phenomenological risk/threat assessment protocols pertaining to sexual deviancy, sexual compulsivity, and sexual preoccupation behaviors. Investigation targets may include any of the following:

- A. Voyeurism/sexual peeping activities, including all attempts to look into someone's home, bedroom or bathroom without the person's knowledge or permission, in an attempt to view someone naked, undressing/dressing, or engaging in sexual acts. Voyeurism activities include attempts involving the use or creation of a hole or opening to view others for sexual arousal, including all attempts to use any optical devices (e.g., cameras, mirrors, binoculars, or telescope) to view others for sexual purposes.
- B. Exhibitionism/indecent exposure, including all attempts to intentionally or to have appear to have "accidentally" exposed one's bare private parts to unsuspecting persons in public places. Exhibitionism includes wearing loose or baggy clothing that allows one's sexual organs to become exposed to others, and may also include mooning, streaking or flashing behaviors, and public urination while in view of others.
- C. Theft or use of underwear/undergarments for sexual arousal or masturbation, including taking or keeping undergarments (including other personal property or "trophies") from relatives, friends, sexual partners, or strangers for masturbation or sexual arousal. It also includes all incidents of wearing or trying on another person's underwear or undergarments without that person's knowledge or permission, in addition to all incidents in which underwear, undergarments, or personal property was returned after use for masturbation or sexual arousal.

- D. Frottage/sexual rubbing, including all attempts to sexually rub or touch others without their knowledge or permission, by standing or walking too close in public locations (e.g., work, stores, school, or other crowded places), or during any form of play, horseplay, wrestling/athletic activities, or other similar activities.

8.3.3.2. General sexual history exam II – additional investigation targets.
Other possible investigation targets for the Sex History Exam include but are not limited to the following:

- A. Child pornography, including any history of ever viewing, possessing, producing, using, or distributing pornographic images of minors (i.e., infants, children or teenagers under age 18) who were engaging sexual acts.
- B. Sexual contact with animals, refers to all sexual behaviors (including attempts) involving pets, (those belonging to the examinee or others) domesticated (farm/ranch) animals, or wild animals, whether living or deceased, and whether whole or dismembered. This target may include animal cruelty behaviors.
- C. Prostitution activities, including ever paying anyone or being paid for sexual contact (including erotic massage activities) with either money, property, or any special favors. It also includes ever employing or managing others who were paid to engage in sexual activities.
- D. Coerced sexual contacts, including bribing, tricking, manipulating, lying, misuse of authority, badgering/pestering, wearing-down boundaries, or not accepting “no” for an answer.
- E. Stalking/following behaviors, including all incidents of following someone to his or her home, workplace or vehicle, or following others around a store, aisle, parking lot, workplace/school, campus, or community for sexual or aggressive/angry reasons. It also includes all other efforts to monitor or observe another person's behavior without that person’s knowledge or permission,
- F. Use of a computer to solicit minors for sexual activities, including ever using a computer, the Internet, or any electronic communication device in attempt to solicit an underage person for sexual contact. It also includes ever engaging in on-line sex-chat or cyber-sex activities via IRC, Instant Messaging, Web Chat, email or any other electronic method.

- G. Masturbation or sexual acts in public places where one could be seen by others such as a vehicle, hiding place, standing outside someone's home or window, or anywhere one could watch others without their knowledge or permission. It also includes masturbation or sexual acts in workplace/school locations, public restrooms, or adult entertainment businesses.
- 8.3.3.3. General sexual history exam II – time of reference. The time of reference for the Sex History Exam I may be restricted to the period of time prior to the current court supervision that mandated the present treatment when there are concerns about 1) potential differences in consequences for pre-treatment or pre-conviction acts and those acts occurring post conviction or after treatment onset, or 2) examinee rights pertaining to the behavioral targets after conviction while under the supervision of a court or in a treatment program. The time of reference should be included in the test questions unless clearly established during the pretest interview.
- 8.3.3.4. General sexual history exam II - testing approach. Examiners should conduct this examination as a multi-issue (mixed-issue) exploratory examination. However, nothing in this Model Policy should be construed as to prohibit the completion of the General Sex History Exam II in a series of more narrowly focused exams when that approach will lend to more accurate or satisfactory resolution of the investigation targets. Nothing in this Model Policy should be construed as to require the investigation of all or any of the suggested investigation targets or preclude the selection of alternative targets pertaining to sexual behavior that would assist the supervision and treatment team in determining and responding to the examinee's supervision and treatment needs.
- 8.3.3.5. Testing the limits of admitted sexual compulsivity or sexual preoccupation. Examiners should attempt to prioritize the investigation of behaviors in which the examinee denies any involvement. It may not be realistic to hope to know *everything* when an examinee admits to substantial involvement in sexual behaviors that may include elements of sexual compulsivity or sexual preoccupation. In these cases community supervision team members should be informed of the examinee's admission of substantial involvement.
- 8.4. Maintenance exam. Examiners should conduct the Maintenance Examination (ME) to thoroughly investigate, either periodically or randomly, the examinee's compliance with any of the designated terms and conditions of probation, parole, and treatment rules.

- 8.4.1 Maintenance exam - scheduling. It is recommended that Maintenance Exams be completed every four to six months, or every 12 months at a minimum. Community supervision team members should consider the possible deterrent benefits of randomly scheduled maintenance exams for some examinees.
- 8.4.2. Maintenance exam - examination targets. Investigation targets for the Maintenance Exam should bear operational relevance to an examinee's stability of functioning and any changes in dynamic risk level as indicated by compliance or non-compliance with the terms and conditions of the supervision and treatment contracts. Any of the terms and conditions of the probation or treatment may be selected as examination targets. Investigation targets for Maintenance Exams should emphasize the development or verification of information that would add incremental validity to the early detection of an escalating level of threat or to the community or to potential victims.
- 8.4.2.1. Unknown allegations. Maintenance Exams should not address known allegations or known incidents, which are properly investigated in the context of an event-specific polygraph exam.
- 8.4.2.2. Compliance focus. Maintenance Exams should be limited to questions about compliance or non-compliance with supervision and treatment rules. Questions about unlawful sex acts or re-offense behaviors may be included in the examination as long as circumstances related to rights against self incrimination as listed in the section dealing with Sex Offense Monitoring examinations do not exist. An elevated level of concern regarding reoffense would warrant a Sex Offense Monitoring Exam (SOME) – not a Maintenance Exam. Examiners should exercise caution to ensure they do not violate any rights of an examinee regarding the answering of questions about new criminal behaviors.
- 8.4.2.3. Examination targets. Examination targets should include, but are not limited to the following:
- A. Sexual contact with unreported persons of any age, including any form of rubbing or touching of the sexual organs (i.e., breasts, buttocks, or genitalia) of any person not already known or reported to the supervision and treatment team, either over or under clothing, for the purpose of sexual arousal/stimulation, sexual gratification, or sexual “curiosity.” It also includes causing or allowing others to touch or rub one's own private parts either over of under clothing, for the purpose of sexual arousal/stimulation, sexual gratification, or sexual “curiosity”; and sexual hugging and kissing activities.

- B. Use of pornography, refers to viewing or using X-rated (or “XXX”), nude, or pornographic images or materials (e.g., pornographic magazines, pornographic movies on cable television, including scrambled television programming, pornographic movie theaters, pornographic video arcades, videotape, CD/DVD, or other recorded media including pornographic images or materials via computer or the Internet, iPod, cell phone, video games, or any electronic messaging system). It may also include using non-pornographic erotica (nude or non-nude) images or materials for sexual stimulation or masturbation purposes (e.g., sexually objectifying entertainment magazines, bikini or car magazines, nudity or erotic scenes in non-pornographic movies, sexually oriented stories in magazines, novels, or Internet/computer resources, and/or anything at all on television). This target may be restricted to using pornographic or sexually stimulating materials for masturbation purposes when the examinee admits to incidental contact with pornographic images.
- C. Masturbation activities and masturbatory fantasies, which may refer to any involvement in masturbation activities when the examinee is prohibited from those activities, or it may refer to problematic forms of masturbation such as masturbating in a public location or where one could view or be viewed by others. It may also include voluntary or involuntary/intrusive thoughts or fantasies of a minor or past victim while masturbating or masturbation due to stress, boredom, anger, or other negative mood.
- D. Unauthorized contact with underage persons, which refers to prohibited physical or other contact with underage persons, or to being completely alone or unsupervised with underage persons if the examinee has reported or admitted to incidental contact.
- E. Sexual offenses while under supervision, including forced, coerced or violent sexual offenses, sexual offenses against underage persons, incest offenses, or sexual contact with unconscious persons. It may also include sexual deviancy/compulsivity/preoccupation behaviors such as voyeurism, exhibitionism, theft of undergarments, public masturbation or other behaviors.
- F. Use of alcohol, illegal drugs or controlled substances, including tasting or consuming any beverage containing alcohol (if prohibited), or consuming any product containing alcohol for the purpose of becoming

intoxicated, inebriated, drunk, “buzzed,” or “relaxed.” It also includes any use of marijuana (whether inhaled or not) or any other illegal drugs. This target also includes any misuse of controlled prescription medications, whether borrowing, sharing, trading, loaning, giving away, or selling one's own or another person's prescription medications or using any medication in a manner that is inconsistent with the directions of the prescribing physician.

- 8.4.3. Maintenance exam - time of reference. Maintenance Exams should address a time of reference subsequent to the date of conviction or the previous Maintenance Exam, generally not exceeding one year and only exceeding two years in rare circumstances. The time of reference may be described generally as the six-month period preceding the examination; although, there may be reasons for lengthening or shortening the time of reference for some exams. All investigation targets in a test series should have a common time of reference.
- 8.4.4. Maintenance exam - testing approach. Examiners should conduct this examination as a multi-issue (mixed-issue) exploratory examination. However, nothing in this Model Policy should be construed as to prohibit the completion of the Maintenance Exam in a series of more narrowly focused exams when that approach will lead to more accurate or satisfactory resolution of the investigation targets.
- 8.5. Sex offense monitoring exam. Examiners should conduct the Sex Offense Monitoring Exam to explore the possibility the examinee may have been involved in unlawful sexual behaviors including a sexual re-offense during a specified period of time. Other relevant questions dealing with behaviors related to probation and treatment compliance should not be included.
 - 8.5.1. Sex offense monitoring exam - scheduling. Sex Offense Monitoring Exams should be completed whenever there is a specific request from a supervision or treatment professional to investigate the possibility of a new offense while under supervision. Alternatively, this exam may be used when 1) the likelihood of sexual offense or other sexual crime is elevated because of information received by any member of the team to include the examiner, or 2) following a previously unresolved maintenance examination that included a relevant question about sexual offense behavior. Whenever the results of a maintenance exam indicated the need for further testing to obtain a more diagnostic conclusion, a single-issue test format will be utilized. A single-issue Sex Offense Monitoring Exam can be expected to have improved diagnostic accuracy over a multi-issue (mixed issue) exam. However, this approach is still an exploratory exam, which should not be regarded as a sole basis for action (such as probable cause for arrest, revocation or removal from a treatment program).

- 8.5.2. Sex offense monitoring exam - examination targets. Examiners should select investigation targets for the Sex Offense Monitoring Examination that pertain to new sex crimes while under supervision based on concerns expressed by the supervision and treatment team.
 - 8.5.3. Sex offense monitoring exam - time of reference. Sex Offense Monitoring Exams should refer to a time of reference generally following the date of conviction or a previous Monitoring Examination. The time of reference should be clearly stated in the test questions and may include all or any part of the time that the examinee is under supervision or in treatment, including a specific date or restricted period of time. The time of reference should emphasize the investigation of possible unlawful sexual acts or sexual re-offense during the most recent period of months prior to the Sex Offense Monitoring Exam.
 - 8.5.4. Sex offense monitoring exam - testing approach. Examiners should conduct the Sex Offense Monitoring Exam as a multi-issue (mixed-issue) exploratory examination. However, nothing in this Model Policy should be construed as to prohibit the completion of the Sex Offense Monitoring Exam as a narrowly focused exam when that approach will lend to more accurate or satisfactory resolution of the investigation targets. Examiners should use a single-issue technique when the Sex Offense Monitoring Exam is used to follow-up on a previously unresolved Maintenance Exam.
9. Suitability for testing. Suitable examinees should, at a minimum, be expected to have a capacity for...
 - A. Abstract thinking;
 - B. Insight into their own and others' motivation;
 - C. Understand right from wrong;
 - D. Tell the basic difference between truth and lies;
 - E. Anticipate rewards and consequences for behavior; and
 - F. Maintain consistent orientation to date, time, and location.
 - 9.1. Medications. Examiners should obtain and note in the examination report a list of the examinee's prescription medication(s), any medical or psychiatric conditions, and any diagnosed acute or chronic medical health conditions.
 - 9.2. Unsuitable examinees. Examiners should not test examinees who present as clearly unsuitable for polygraph testing at the time of the examination.
 - 9.2.1. Psychosis. Persons who are acutely psychotic, suicidal, or have un-stabilized or severe mental health conditions, including dementia, should not be tested.

- 9.2.2. Age. Persons whose chronological age is 12 years or greater should be considered suitable for polygraph testing unless they are substantially impaired. Polygraph testing should not be attempted with persons whose Mean Age Equivalency (MAE) or Standard Age Score (SAS) is below 12 years as determined by standardized psychometric testing (e.g., IQ testing, and adaptive functioning).
- 9.2.3. Level of functioning. Persons whose level of functioning is deemed profoundly impaired and warranting continuous supervision or assistance may not be suitable for polygraph testing.
- 9.2.4. Acute injury or illness. Persons suffering from an acute serious injury or illness involving acute pain or distress should not be tested.
- 9.2.5. Controlled substances. Persons whose functioning is observably impaired due to the influence of non-prescribed or controlled substances should not be tested.
- 9.3. Team approach. Examiners should consult with other professional members of the multi-systemic containment team, prior to the examination, when there is doubt about an examinee's suitability for polygraph testing.
- 9.4. Incremental validity. When there are concerns about an examinee's marginal suitability for testing, examiners should proceed with testing only when multi-disciplinary team determines that such testing would add incremental validity to risk assessment, risk management, and treatment planning decisions through the disclosure, detection, or deterrence of problem behaviors.
- 10. Testing procedures. Examiners who engage in PCSOT activities should adhere to all generally accepted polygraph testing protocols and validated principles.
 - 10.1. Case background information. The examiner should request and review all pertinent and available case facts within a time frame sufficient to prepare for the examination.
 - 10.2. 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.
 - 10.3. Pre-test phase. Examiners should conduct a thorough pre-test interview before proceeding to the test phase of any examination. A thorough pretest interview will consist of the following:
 - 10.3.1. Greeting and introduction. Examiners should introduce themselves by their names and orient examinee to the examination room.

- 103.2. Brief explanation of procedure. Examiners should ensure examinees have some information about the ensuing procedure and scope of testing prior to obtaining the authorization and release to complete the exam.
- 103.3. Authorization and release. Examiners should obtain an examinee's agreement, in writing and/or on the audio/video recording, to a waiver/release statement. The language of the statement should minimally include 1) the examinee's voluntary consent to take the test, 2) that the examination may be terminated at any time, 3) a statement regarding the examinee's assessment of his or her mental and physical health at the time of the examination, 4) that all information and results will be released to professional members of the community supervision team, 5) an advisement that admission of involvement in unlawful activities will not be concealed from the referring professionals and 6) a statement regarding the requirement for audio/video recording of each examination.
- 103.4. Biographical data/determination of suitability for testing. Examiners should obtain information about the examinee's background including marital/family status, children, employment, and current living situation in addition to a brief review of the reason for conviction and length/type of sentence. Examiners should obtain, prior to and at the time of the examination, information pertaining to the examinee's suitability for polygraph testing.
- 103.5. Explanation of polygraph instrumentation and testing procedures. The testing process should be explained to the examinee, including an explanation of the instrumentation used and the physiological and psychological basis of response. Nothing in this Model Policy should be construed as favoring a particular explanation of polygraph science. In general, an integrated explanation involving emotional attributions, cognitive theory and behavioral learning theory may be the best approach.
- 103.6. Structured interview. The examiner should conduct a thorough structured or semi-structured pre-test interview, including a detailed review of the examinee's background and personal information, any applicable case facts and background, a detailed review of each issue of concern, and an opportunity for the examinee to provide his or her version of all issues under investigation. For event-specific diagnostic/investigative polygraphs of known allegations or known incidents, a free-narrative interview is used instead of a structured or semi-structured interview.
- 103.7. Review of test questions. Before proceeding to the test phase of an examination, the examiner should review and explain all test questions to the examinee. The examiner should not proceed until satisfied with the examinee's understanding of and response to each issue of concern.
- 10.4 In-test operations. Examiners should adhere to all generally accepted standards and protocols for test operations.

- 10.4.1 Environment. All examinations should be administered in an environment that is free from distractions that would interfere with the examinee's ability to adequately focus on the issues being addressed.
- 10.4.2 Instrumentation. Examiners should use an instrument that is properly functioning in accordance with the manufacturer's specifications.
 - 10.4.2.1. Component sensors. The instrument should continuously record the following during the test: thoracic and abdominal movement associated with respiratory activity by using two pneumograph components; electrodermal activity reflecting relative changes in the conductance or resistance of current by the epidermal tissue; and cardiovascular activity to record relative changes in pulse rate and blood pressure. A channel that detects vasomotor responses or other validated data channels may also be recorded.
 - 10.4.2.2. Activity sensors. A motion sensor is recommended and will be required for use by APA members effective January 1, 2012.
- 10.4.3 Data acquisition. The conduct of testing should conform to all professional standards concerning the data quality and quantity.
 - 10.4.3.1. Number of presentations. Examiners employing a comparison question technique should conduct a minimum of three presentations of each relevant question. It is acceptable to conduct a fourth or fifth presentation in order to obtain a sufficient volume of interpretable test data.
 - 10.4.3.2. Question intervals. Question intervals should allow a reasonable time for recovery. For comparison question techniques, question intervals from stimulus onset to stimulus onset should not be less than 20 seconds. It is suggested that a time period between 25 and 30 seconds would be superior to the minimum time of 20 seconds.
 - 10.4.3.3. Acquaintance test. An acquaintance test should be administered during the first examination of each examinee by each examiner. Examiners are encouraged to use an acquaintance test during the conduct of other tests as appropriate.
- 10.5. Test data analysis. The examiner should render an empirically-based interpretation of the examinee's responses to the relevant questions based on all information gathered during the examination process.
 - 10.5.1. Scoring methods. Examiners should employ quantitative or numerical scoring for each examination using a scoring method for which there is known validity and reliability, which has been published and replicated.

- 10.5.2. Results – diagnostic exams. Test results for event-specific diagnostic/investigative tests should be reported as Deception Indicated (DI), No Deception Indicated (NDI) or Inconclusive (INC) / No Opinion (NO).
- 10.5.3. Results – exploratory exams. Test results of exploratory tests should be reported as Significant Response (SR), No Significant Response (NSR) or No Opinion (NO).
- 10.5.4. No opinion/inconclusive. Examiners should render No Opinion (NO) whenever test results produce inconclusive numerical scores or whenever the overall set of test data do not allow the examiner to render an empirically-based opinion regarding the relevant test questions. (I.e., when test results are “inconclusive,” an examiner should render “no opinion” concerning the truthfulness of the examinee.) “No opinion” concerning the truthfulness of the examinee should be reported when an examination was stopped prior to collection of sufficient data to arrive at an empirically-based opinion.
- 10.5.5. Professional opinions and test results. Examiners should render an opinion that the examinee was deceptive when the test results are SR or DI for any of the investigation targets. Examiners should render an opinion that the examinee was truthful when the test results are NSR or NDI for all of the investigation targets. Examiners should not render an opinion that the examinee was truthful when the test results are SR or DI for any of the investigation targets. Examiners should not conclude an examinee is deceptive in responses to one or more investigation targets and non-deceptive in responses to other investigation targets within the same examination.
- 10.5.6. Non-cooperation. Examiners should note in the examination report whenever there is evidence that an examinee has attempted to falsify or manipulate the test results and whether the examinee was forthcoming in explaining his or her behavior during the test. An opinion that the examinee was Purposefully Non-Cooperative (PNC) is appropriate when there is evidence that an examinee was attempting to alter his or her physiological response data. Examiners reporting an examinee was PNC are not precluded from rendering an opinion that the examinee was deceptive (SR/DI) when the numerical scores support a conclusion that there were significant reactions to one or more relevant questions. Examiners should not render an opinion of truthfulness (NSR/NDI) when there is evidence that an examinee has attempted to falsify or manipulate the test results.
- 10.5.7. Data quality. Examiners should not render a conclusive opinion when there is insufficient data of adequate quality and clarity to allow a minimum of three interpretable presentations of each of the investigation targets.

- 10.5.8. Computer algorithms. Computer scoring algorithms should not be used to score examination data that is of insufficient quality for manual scoring, and computer algorithms should never be the sole determining factor in any examination decision.
- 10.6. Posttest review. The examiner should review the test results with the examinee, advise the examinee of any significant responses to any of the test questions, and provide the examinee an opportunity to explain or resolve any reactions or inconsistencies.
- 11. Examination report. Examiners should issue a written report containing factual and objective accounts of all pertinent information developed during the examination, including case background information, test questions, answers, results, and statements made by the examinee during the pre-test and post-test interviews.
 - 11.1. Dissemination of test results and information. The polygraph examination report should be provided to the professional members of the community supervision team who are involved in risk assessment, risk management, and treatment/intervention planning activities.
 - 11.1.1. Dissemination to other authorities. Reports and related work products should be released to the court, parole board or other releasing agency, or other professionals at the discretion of the community supervision team or as required by law.
 - 11.1.2. Communication after the exam. Following the completion of the posttest review, examiners should not communicate with the examinee or examinee's family members regarding the examination results except in the context of a formal case staffing.
 - 11.2. Scope of expertise. Examiners should not attempt to render any opinion concerning the truthfulness of the examinee prior to the completing the test phase and test-data-analysis. Examiners should not attempt to render any opinion regarding the medical or psychological condition of the examinee beyond the requirement to determine suitability for testing at the time of the examination. Post-test recommendations should be limited to needs for further polygraph testing and the resolution of the behavioral targets of the examination.
- 12. Records retention. Examiners should retain all documentation, data, and the recording of each examination for a period of at least three years or as required by law.
- 13. Quality control. To ensure examiner compliance with these recommendations and other field practice requirements and to sustain the quality of the testing process, an independent quality control peer-review of a portion of each examiner's work product should take place annually.
- 14. Examiner qualifications. Examiners whose work is to be considered consistent with the requirements of this Model Policy shall have completed a basic course of polygraph training at a polygraph school accredited by the APA or meet other training, experience and competency requirements for professional membership in the APA.

- 14.1. Specialized training. Examiners shall have successfully completed a minimum of forty (40) hours of specialized post-conviction sex offender training that adheres to the standards established by the APA. Passing a final written examination, approved by the APA or its designated representative, shall occur prior to receiving a certificate of training for specialized PCSOT training.
- 14.2. Continuing education. Examiners shall successfully complete a minimum of thirty (30) continuing education hours every two (2) years. Fifteen of those hours shall pertain to specialized sex offender polygraph training.

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