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SOME AVOIDABLE LIE-DETECTOR MISTAKES

Fred E. Inbau

In this article Professor Inbau discusses with commendable frankness some of the difficulties attending the lie-detector technique. His views upon this subject were presented at a meeting of the Academy of Forensic Sciences in Chicago, on January 26, 1950. The author, a Professor of Law at Northwestern University, was formerly Director of the Chicago Police Scientific Crime Detection Laboratory. Professor Inbau's book "Lie Detection and Criminal Interrogation," which is now in the second printing of the second edition, is recognized as the authoritative work in this field—EDITOR.

The most competent lie-detector examiner may and does make mistakes, and in a certain percentage of his cases he is unable to arrive at a definite opinion as to whether his subject is telling the truth or lying. Nevertheless, many lie-detector errors and inconclusive test results are avoidable ones. The factors which generally account for this latter group may be briefly stated as "unfit subjects" and "unqualified examiners."

SUBJECTS UNFIT FOR TESTING

Most lie-detector errors and inconclusive test results are attributable to the incompetency of the examiner conducting the test. In many instances, however, they are properly chargeable to a prevailing practice whereby otherwise qualified examiners will accept for test purposes subjects who have been rendered unfit for any such testing because of the treatment they have encountered at the hands of police investigators before being presented for lie-detector tests.

No one in his right mind would expect a medical technician to conduct a satisfactory metabolism test on a patient who had just emerged from a fist fight or who had been chased up a flight of stairs or who had been verbally abused and threatened while on his way to the examination room. Yet the thought apparently seldom occurs to some police investigators that a person may be rendered unfit for a lie-detector test by an extensive interrogation based upon frequent and constant accusations of guilt. In many of these instances, the lie-detector examiner is unable to make a diagnosis that he considers reliable; his report is "indefinite" or "inconclusive," and so the press report reads too. In cases where the extensive interrogation is accompanied by actual physical abuse, the positive suggestions of guilt constituting part of the "third degree" procedure may produce test reactions which will simulate true deception criteria in an innocent person's record. There is at least one such case in which this actually happened. The same

pre-test experience also may so condition a guilty subject that his enmity toward the investigators becomes the center of his thinking rather than the offense itself, and the ordeal may actually relieve him of whatever mental conflicts are present because of his criminal act. In this event it is highly probable that a "third degree" victim's deception may not be detected by the lie-detector technique, and another lie-detector failure will probably find its way into the press reports.

Any testing which is attempted under the conditions just described is unfair to the lie-detector technique and to the examiner as well.

Experience on the part of competent examiners who restrict their practice largely to personnel investigations indicates that their percentage of accuracy and of definite reports far exceeds that of examiners in police cases. The difference may be attributed in large part to the fact that the personnel investigator's subjects are in much better condition for their tests. They have not been physically abused or extensively interrogated.

What can the police-employed lie-detector examiner do to remedy the present situation? Three things:

1. Establish a practice of refusing to test a subject who has been physically abused.
2. Where the circumstances are in the extreme, refuse to examine a subject who has been extensively interrogated, even though no direct physical abuse has been administered.
3. Try to develop a procedure within the particular police department whereby lie-detector tests will ordinarily be conducted during the early stages of an investigation or interrogation rather than as a last resort when all else has failed.

To some persons these suggestions may appear to be naively conceived. They will say that only a very unrealistic individual will expect a lie-detector examiner who is working in or for a police department to adopt such an attitude and survive the consequences. In the writer's opinion, however, a person who does not have the necessary courage or the ability to meet the situation is unfit for the role of lie-detector examiner.

THE BASICALLY UNQUALIFIED EXAMINER

In assessing the qualifications of a lie-detector examiner, it must be remembered that his task is not simply the manipulation of an instrument; as a matter of fact the actual operation

of the instrument itself requires very little ability or training. The examiner's most important task and responsibility consists of the diagnosis of deception from an examination and study of the physiological changes recorded by the instrument. Along with his skill in that respect, however, he must be able to perform the next most important task—the skillful interrogation of a guilty subject with a view toward obtaining a confession of his guilt.

To qualify for this two-fold assignment, an examiner need not be a physician or a psychologist, but he must be an intelligent person with a reasonably good educational background—preferably college training. He should have an intense interest in the work itself, a good practical understanding of human nature generally, and suitable personality traits which may be evident from his otherwise general ability to “get along” with people and to be well liked by his friends and associates. Unless he has these qualifications, no amount of training or experience will permit him to produce very satisfactory results either as regards the accuracy of his deception diagnosis or his record for confessions obtained from guilty subjects.

Many persons now functioning as lie-detector examiners do not possess these basic qualifications. They should never have been encouraged to embark upon such a career. Unfortunately, however, a number of established examiners have conducted schools for trainees and have followed a practice of accepting as students practically anyone who applied with the necessary tuition fee or who had been selected by his own police department or governmental agency to attend the school at his employer's expense.

A person without a better-than-average intelligence, a fair educational background, and a good practical understanding of human nature generally, will inevitably make more mistakes than a trained individual with the necessary basic qualifications. The basically unqualified examiner is the one who in view of his own personal shortcomings will feel impelled to make a definite diagnosis in practically every case, and for that reason is more likely to make outright mistakes. To him an indefinite report is an admission of personal failure. He is also less likely to succeed in private practice as a lie-detector examiner if he makes such an attempt, and with a realization of impending failure he will be more receptive to rendering opinions favorable to that side in a controversy or investigation which is prepared to pay the higher price for a suitable opinion.

No experienced examiner who values the status of the lie-detector technique or his own reputation should accept for training, at whatever the price may be, individuals who are basically unqualified.

INADEQUATE TRAINING

Although it is possible for a person with proper basic qualifications to ultimately develop into a competent examiner after several weeks of intensive study, instruction, experimentation, and actual case observations, the desirable minimum period of training is about six months. During that time his course of study should include readings and instruction in the pertinent phases of physiology and psychology; frequent observations of an experienced examiner working on actual cases; personal experience in experimental case testing and actual case testing under an instructor's supervision; and the examination and interpretation of a considerable number of records in solved cases. His course of training should also include instruction, as well as observational and personal experience, in the application of psychological tactics and techniques for obtaining confessions and other helpful information subsequent to the testing of untruthful subjects.

Regardless of the time element, however, adequate training cannot be given by an instructor to more than about six persons at a time. The student in larger groups cannot acquire the necessary practical experience or receive the individual attention required from the experienced examiner. Here again, therefore, is a prevailing practice that should be modified in the interest of better examiners and fewer mistakes.

During and after any course of instruction the student should be made to realize fully that the technique is subject to limitations and that he should not represent it to agencies utilizing his service as possessing any infallibility in its indications.

Some branches of the armed services have used and are perhaps still using as examiners certain individuals who are basically unqualified and improperly trained. They have at times conducted tests—and on a large scale basis at that—upon persons whose loyalty was under scrutiny, and in many instances the reports of these examiners appear to have been accepted at face value and upon the assumption that the technique produced results approximating perfection. For the future welfare of this nation, let us hope that somewhere along the line of persons responsible for the security of our secret weapons or of any other project or interest of national importance there develops

a realization that the dependability of lie-detector test results is no greater than the qualifications and ability of the examiner himself. Moreover, there should be an awareness that even as regards a highly qualified examiner mistakes are still a possibility.

THE NEED FOR SPECIALIZATION

Mastering the lie-detector technique is no simple matter. It requires much time and effort. In fact it requires all of one's working time and energy. An examiner cannot do justice either to the technique or to himself if one day he is a chemist, or a firearms expert, and the next day, or hour, he functions as a lie-detector examiner. Moreover, the personality requirements for a lie-detector examiner are vastly different from those of laboratory technicians generally. As a rule the man who is good with the microscope or chemicals either does not have the required interest in testing and interviewing people or else he lacks the essential personality characteristics. By this suggestion no reflection is intended, of course, upon the laboratory technicians; in fact, the situation is no better when reversed. The capable lie-detector examiner is usually a misfit when he tries to work in these other fields.

It is a mistake, therefore, for any police department to assume that laboratory personnel can be readily shifted from a chemistry section or a firearms section into the laboratory's lie-detector unit. It is also unwise for an individual to attempt to shift back and forth from the one type of work to the other. He should realize quite early in his career that the lie-detector technique, like the profession of law, is a "jealous mistress." It will demand and require his undivided attention.

CONCLUSION

The lie-detector technique, when properly used, is an invaluable investigative aid; and it is being so used by a number of very able examiners. At the same time, however, we must recognize the existence of certain objectionable practices which retard the progress of the technique and contribute very materially to the making of otherwise avoidable mistakes. Only by a recognition of these shortcomings and a frank discussion of the problem can we invoke the necessary corrective measures.