

Since 1921— polygraph debate continues

by ALAN MURRAY

Magic mirrors

The search for truth is eternal. It justifies the existence of great universities, the publication of innumerable tomes of philosophy and religion and the launching of fleets of ships, diving bells and rockets to the perimeters of the accessible universe.

Seeking truth in interpersonal relationships, formal and informal, has also been an important part of human existence. Othello, great Moorish prince, murdered his wife Desdemona in a fit of passion triggered by what he thought was the truth. It wasn't, and, in a fit of guilt, he murdered himself.

And so humans have sought to uncover ways of ascertaining truths that are not self-evident or discernible by scientific means. In Rome, there stands a wall with a large opening that is supposed to chop off the hand of someone who tells a lie while holding his or her hand in the opening. Torture and coercion were thought for a while to produce unshakable evidence, a notion thoroughly dismissed in modern days in deference to notions of due process and restraints against self-incrimination.

Fantasy has sought sure indicators of truth in a less brutal fashion. Show White's evil stepmother had her "mirror, mirror on the wall," while poor Pinocchio had to live with an elongated nose whenever he strayed from veracity. Children enforce truth-telling with incantations like "cross your heart and hope to die" if you lie.

But the modern age is too sophisticated for torture, magic devices or childlike promises. Instead, we have turned to technology for the answers. Scientists still work on truth serums of spy-thriller fame, but most of society relies upon a handy device called the polygraph.

Most of us simply call it a lie detector.

When operated by a fully qualified and experienced person, the lie detector can provide insights

into the near-truth of particular statements. How accurate the polygraph is is under much dispute. Depending upon the personality of the subject and the ability of the operator, a polygraph examination can produce results of highly variable accuracy.

If accuracy were the only question, the polygraph would face a large number of critics. But privacy, dignity and the right not to incriminate oneself are also at the heart of criticisms of use of polygraphs. In federal courts, for example, polygraph examinations cannot be introduced into evidence without the consent of the subject of the test. The American Civil Liberties Union and the crusty civil libertarian Sam Ervin have actively opposed the machine on the grounds that it violates the Fifth Amendment and the sanctity of individual privacy.

In light of critical comment, one would hope that use of polygraphs is strictly overseen by responsible agencies and rarely employed except in matters of extreme importance. In fact, such is not the case. Commercial examiners will conduct examinations for any business or industry and are subject to flimsy licensing regulations.

In North Carolina, for example, an examiner need only be a high school graduate and attend an approved six to eight week training course. Yet in that short period of time he or she is expected to digest nuances of psychology, physiology, criminology and other disciplines bearing on the interpretation of polygraph results. A six week crash course on top of high school education is hardly an assurance of skill in interpretation.

Yet people lose jobs because of polygraphs. Some face criminal action against them because of polygraphs. We cannot allow this to happen without proper protection. It is time to reconsider laws and practices concerning polygraphs until accuracy can be assured and threats to individual liberty be minimized.

The machine don't tell me if it's a little lie or a big lie. All I can say is if they're relying, David Shaffer

On a Saturday morning last August, the owner of a local restaurant opened his shop to discover that his cash register was empty. No windows had been broken, no locks tampered with. But the \$300 in operating change that had filled the register at closing time the previous night was gone.

The owner and the Chapel Hill police quickly concluded that it was an inside job. Someone with a key (keys were abundant and easily copied) had entered during the night and taken the money.

The owner was frantic. This was the second time within a month that his register had been cleaned out during the night, and his profits were falling fast. No answers were provided by the Chapel Hill police, but one of the detectives offered a suggestion. He advised that lie-detector tests be given to all the employees who had worked the night of the theft. And, to do the job, he recommended David Shaffer, a former Chapel Hill policeman turned private detective.

The restaurant owner didn't know much about lie-detectors, and was hesitant to subject his employees to the test. But he saw no alternative. He couldn't afford to allow the thefts to continue. And besides, he felt that the tests might at least encourage his employees to be more conscientious. So, for a price that was slightly less than the amount stolen from the register, he arranged for Shaffer to drive over from Raleigh and administer the tests to the employees.

Bob was the second employee to be tested. Like most of the others, he was a student, working only part time at the restaurant. He was not working on a regular schedule, but as a substitute at the times when extra help was needed. He had worked on the nights of both thefts.

Bob had previously been fired from a job at the Pine Room for pouring food coloring in the orange juice. Other than that, his employment record was clean. He had been working at the restaurant now for almost two years.

Shaffer asked Scott to sign a consent statement that said he was willing to be tested, and that he was not taking the test "as a condition of employment or of continued employment." The restaurant owner, however, was never shown this statement, and Bob felt certain he would be fired if he refused to be tested.

Shaffer explained to Bob how the instrument worked. He also went over the questions that would be asked during the examination.

Bob was intrigued by the machine, but not by its operator. He thought Shaffer was condescending, intimidating and accusing. At first Bob distorted the polygraph readings by tensing his arm muscles. Shaffer threatened him, saying it would cost \$700 to get the machine fixed if he broke it.

When Shaffer asked "Are you certain that I will not ask you any questions I didn't mention in the pre-test interview," Bob truthfully replied "no." Shaffer, apparently feeling his own honesty had been called into question, angrily cut off the polygraph and asked Bob if he wanted to reconsider that answer. Bob said, again quite truthfully, that he didn't trust Shaffer and had no way of knowing what questions would be asked. Shaffer stomached his anger and continued the test.

The session lasted for about 45 minutes, with questions focusing on the theft and on Bob's background. No "personal" questions were asked ("Personal" was defined by Shaffer as including sex, religion and politics).

During the test, Bob admitted to stealing socks from Woollen Gym, and two jock straps from a drug store when he was 17, but he denied having anything to do with the stolen money.

The other employees were all tested in a similar manner and allowed to leave.

The restaurant owner got a call from Shaffer some time after the examinations had been given. Shaffer said he wanted to re-examine Bob, and, several days later, Bob was taken to Raleigh for another test.

The conclusion of the written report which the store owner received after this second test was somewhat vague: "It is the opinion of the examiner that this subject was untruthful during his tests."

Over the telephone, however, Shaffer was unequivocal. "That's your man," he told the owner.

The restaurant owner was a little disturbed by the vagueness of the written report. He also wondered why, if Shaffer was so certain, there was need for a second test. Or, for that matter, why Shaffer needed to test anyone else after testing Bob. But he felt extremely nervous and uncomfortable having Bob work in the restaurant.

A few weeks later, the restaurant owner, while adding up the day's receipts, found that he was \$40 short. He immediately notified Bob that he never wanted him to work again.

There is no lie-detector, machine or man. House Committee on Government Operations

The debate over the use of polygraphs has been going on since 1921 when John Larson tested his primitive instrument on criminal subjects. Two questions have been the focus of this debate: How accurate is the polygraph? Does its use constitute an invasion of the individual's right to privacy?

The first question has been answered indecisively by the admission of polygraphs as well as their critics that the relative accuracy of the polygraph method depends on the skill of the examiner.

The second question has found no answers at all. The minimal regulation of the use of polygraphs in most states, and the total lack of regulation in some, indicates that most legislators don't see the polygraph as a violation of individual rights. But many people and organizations, including former Senator Sam Ervin and the American Civil Liberties Union see the polygraph as a threat to personal freedom.

The courts have taken a firm stand by declaring the results of polygraph tests inadmissible as evidence, except when the prosecution, defense and judge all agree beforehand to allow it. Other government agencies have drawn up guidelines with varying degrees of rigidity to govern the use of polygraphs within each agency.

But as high level debates continue, the use of polygraphs in the private sector proliferates. Although the so-called lie detector conjures visions of Orwell's 1984 in the public mind, there is, as always, an idol that cries louder than personal freedom: money.

An estimated billion dollars is lost by businesses through theft each year. The vast majority of this loss is due to employee pilfering. As a result, employers have become increasingly interested in using lie-detectors to control employee theft.

According to Lee Heinrich, director of the North Carolina Polygraph Services, Inc., the use of polygraphs in North Carolina has almost doubled in the past two years. Heinrich's company has been in business since April 1974, and has serviced several



businesses in Chapel Hill, including Fowler's, Gordon's Jewelers, Radio Shack and the Pantry.

The requirements to obtain a polygraph examiner's license in North Carolina are minimal: the examiner must be a high school graduate; if he has been in the service, he must have an honorable discharge; he must not be guilty of any past felonies; and he must be the graduate of a polygraph school approved by the American Polygraph Association. These schools generally last for six to eight weeks. Students learn a smattering of psychology and physiology and learn about operating and interpreting the instrument.

Even Heinrich feels that these regulations are not strict enough. She believes all examiners should be college graduates (as are all the examiners at North Carolina Polygraph Services), that they should have majored in a field related to polygraphy (such as psychology or physiology) and that they be required to serve an internship for a period before they are licensed.

There are no laws in North Carolina regulating the type of questions that may be asked on a polygraph exam. Thus, NCPS may and does occasionally give tests to engaged couples and married couples to verify their faithfulness to their fiancée or spouse. And they may ask in a pre-employment test if a person has ever been arrested, even though these arrests did not

result in charge or conviction, and therefore don't appear on his record.

The majority of the tests given by NCPS are employee checks. The company has three options which an employer can take advantage of. Pre-employment tests check over the background of a job applicant to be sure he doesn't have a history of theft, drug usage or whatever other habits the employer is interested in (NCPS has a policy, however, of not asking questions about sex on pre-employment tests). Periodic checks give the employer an opportunity to check for grazing, small thefts such as taking food without paying for it or giving merchandise to friends. Specific checks are used when the employer has a larger theft and wants to know who's responsible.

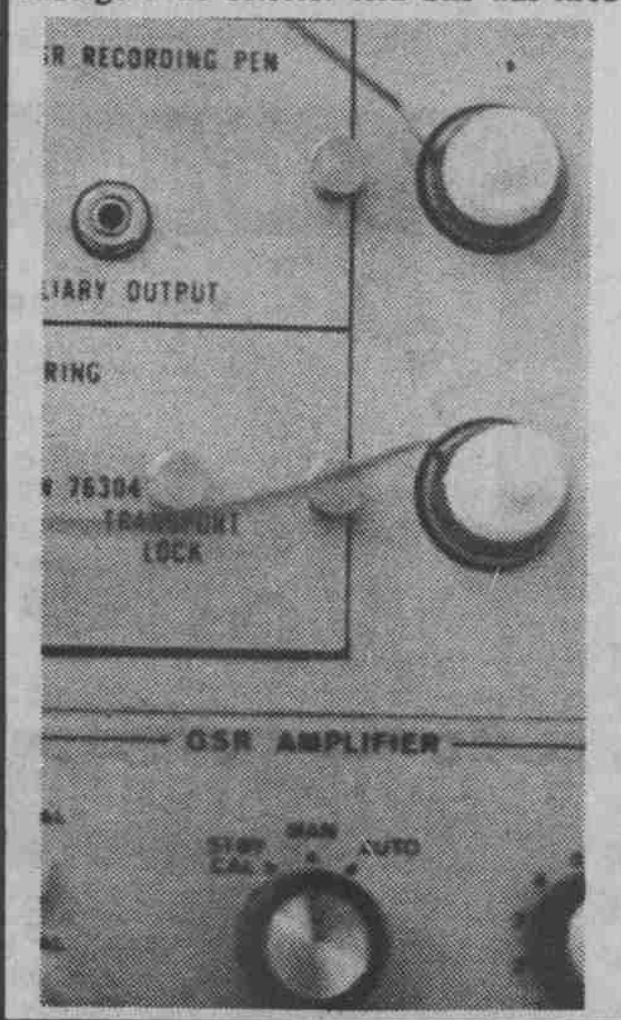
NCPS is one of three private polygraph agencies in Raleigh. The others are Franklin Security, and Shaffer's Detective Agency.

Shaffer is a high school graduate, and attended school for one year in Chapel Hill. He was in law enforcement for 16 years. He left the Chapel Hill Police Department two years ago and went to a six week polygraph school, bought a polygraph and set up shop. Like NCPS, he gives pre-employment, periodic and specific tests for employers. He now does a considerable business, and has done work for the Carolina Coffee shop.

"I ain't the type to do any braggin'," Shaffer tells prospective customers, "but I've had excellent results."

Lie detector: man or machine

In California, a young woman working for a chain food store was charged with defrauding her employer and was forced to undergo a lie detector test. She was fired



when she scored unsatisfactorily on this question: "Did you check out items to your mother at a discount?"

Later investigation revealed that her mother had died several years past and the question had evoked an emotional response. The polygraph examiner read this response as deception.

Lie detector is the common misnomer for what is more precisely known as a polygraph. It does not detect lies. What it does is measure respiration, blood pressure and skin resistance, and record any changes in these on a graph.

While these physiological changes often accompany the act of lying, they do not mean necessarily that a lie has been told.

The polygraph is an instrument, not a machine. It takes readings, but it does not work. Like the tools of a doctor or a mechanic, it is valuable only if used correctly and interpreted properly.

The polygraph technique exploits the subject's fear of being detected and his guilt for having done wrong. Fortunately for polygraph operators, most subjects are afraid of being detected, and do feel guilty about their wrongdoing.

Polygraph examiners have devised various questioning techniques to insure that the responses recorded on the polygraph do in fact indicate deception. The two most common techniques are the known lie

method and the relevant-irrelevant method. In both methods, the examiner asks a series of carefully prepared and worded questions to learn how the person responds.

Polygraphy is an art, and there are many factors that can cause a subject to give a polygraph reading that may be interpreted improperly. Below is a list taken from the book *Truth and Deception*, by John Reid, the director of a polygraph school in Chicago, and Fred Inbau.

Lack of concern over the possibility of detection—If the subject has no real fear of being detected, the polygraph may fail to detect any of the physiological changes that usually accompany deception.

Extreme nervousness, overanxiety, and anger—These emotions may lead to a graph that cannot be interpreted properly.

Concern over neglect or responsibility—If a person has guilt feelings associated with a certain event, he may give a reading that can be interpreted as deceptive when questioned about this event.

Involvement in other similar acts or offenses—This may also lead to guilt feelings where there is no guilt involved, and could lead to a faulty interpretation of deception.

Physical discomfort during test—May lead to confusing graph readings.

Excessive interrogation before the test—Can incite guilt feelings and cause the subject to respond as if he's being deceptive.

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UNC's first black students faced discrimination

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McKissick and Lee were also hindered by the limited law training they received at the black North Carolina College (now North Carolina Central University), from which they transferred.

Prior to integration, the state, holding the position that separate facilities were equal, considered the law school at North Carolina College equal to the UNC law school.

The U.S. District Court in Greensboro had agreed with the state when it denied blacks access to UNC in October 1950.

But Lee, who spent three months at NCC, said there was no comparison between the law schools of North Carolina College and UNC: "One was a law school and one wasn't." The NCC law school contained two classrooms, a small library, and the books were of no use, he said.

Attending the UNC law school was "much of the difference between success and failure," Lee said.

After the lower court ruling, the students and their attorney, now Supreme Court Justice Thurgood Marshall, appealed the case to the 4th Circuit Court of Appeals in Richmond, Va. The appellate court overturned the lower court decision and ordered that the blacks be admitted.

Following a Board of Trustees Executive Committee recommendation that blacks be admitted to white graduate and professional schools when the courses they needed were not offered by a black college, the court ruled

that NCC law school facilities were not equal to those of the University law school.

The University Board of Trustees then appealed the case to the Supreme Court, which refused in June 1951 to grant certiorari, upholding the lower court decision.

The case had to be appealed to the high court, then-Chancellor House said recently. "It couldn't have been done any other way," he said. "We had to go through with it. Otherwise people would have said we gave in too early."

At the time of the court suits, House opposed integration on what he considered "honest grounds," believing the two races should be separate.

"I was much more opposed (to integration) than I am now," he added. "I was looking out for what I thought the people thought."

While House agreed with the University administration's opposition to integration, he did not agree with attempts to discourage North Carolina College students from applying to the University.

According to House, then Consolidated University President Gordon Grey sent him and another University administrator to NCC to dissuade the black students from attending UNC.

"I told them frankly that I was an honest segregationist, that I didn't want colored people here at the University, and that I didn't think it was good for education to mix

the races," he said.

But Grey, contacted last week in Florida, said he could not recall sending anyone to NCC for persuasion purposes.

Grey, 66, and now board chairperson of Senate Communications in Winston-Salem, said he had opposed the desegregation attempts only because of trustee policy.

"Had there been no litigation, I would have urged the trustees to admit black students," he said.

But at an April 1951 trustees meeting, Grey had said, "Insofar as the state provides separate facilities for Negroes, I am opposed to taking Negroes into graduate school of state-supported institutions."

The integration controversy did not end with the admission of five law students. After 1951 the University admitted blacks to the graduate and professional schools, but it refused admission to three black high school students from Durham in May 1955.

However, in September 1955, a special three-judge federal court ordered the Chapel Hill campus to process undergraduate admission requests "without regard to race and color."

The years following the admission of the first black undergraduates were relatively quiet.

The first instances of racial strife in the area began in 1963. Most involved sit-ins and protests against segregation in public accommodations, which resulted in 1,400 arrests from December 1963 to December

1964. The UNC Student Legislature supported the protestors with a bill urging a boycott of segregated establishments in the area.

J. Carlyle Sitterson, now resigned from the chancellor's seat and a Kenan Professor of History, remembered his tenure (1966-72) as an era of transition.

"It was quite different...the state of mind was different from today," he said. "When you made a statement on a complex matter, they would pick out of it that part that appealed to them and, oppositely, distressed them."

At the beginning of his term (1966), Sitterson said, many were concerned that the whole integration process was not taking place as it should, although most agreed that it was a desirable goal.

Sitterson said the black leadership may have frequently overstated black sentiment concerning desegregation. "Some would have wanted it (separatism), but I am by no means sure that reflected the wishes of everybody else," he said.

"The question was," he said, "did they really want to become a part of the mainstream of campus life, without regard to race...or did they want a black community within the larger University?"

In October, 1967 a program to recruit black undergraduates was proposed by Phil Clay, former chairperson of the campus NAACP chapter. The Student Legislature granted the program a \$820 appropriation in

November.

Sitterson said the recruitment program, run mainly by students, helped produce a terrific boost in black enrollment.

"I said, 'yes, we must make the University known to the black community so that the qualified people will think of coming here,'" he said.

But, he added, "I was at that time and am still opposed to lowering University admission requirements in order to meet some of those needs."

The Black Student Movement (BSM) was born in November 1967, largely, its leaders were quoted as saying, because of dissatisfaction with the NAACP.

Initial objectives listed by the BSM included a full-credit Negro history course, Student Legislature funding, seats in the legislature and more black faculty members.

Black demonstrations on Feb. 15-16, 1968 were incited by the deaths of three blacks in Orangeburg, S.C.

Then tension flared on campus following the assassination of Dr. Martin Luther King on April 6, 1968. On the day of King's funeral, April 9, black students and faculty boycotted classes; Sitterson proclaimed a half-day recess for the University; and many downtown businesses closed for the day.

On May 13, 1968 Chapel Hill aldermen made history with the state's first open-housing ordinance.

Black student leaders presented Sitterson with a list of 23 demands in November 1968.

Chief among them were demands for black admissions to be based less on SAT scores, a demand for more black athletes, more financial aid and an Afro-American studies curriculum.

Sitterson responded by saying the University "cannot provide unique treatment for any race."

Two food worker's strikes in 1969 attacked, respectively, low wages and lack of unionization.

Up to 140, mostly black, workers left their jobs at the campus food facilities Feb. 23, closing three of them. The Lenoir Hall dining room closed March 4 and opened again two days later with 40 riot-equipped state troopers at the doors. Some 300 people picketed the hall that day.

Gov. Robert Scott ended the strike in late March with an order that all state employees receive a minimum wage of \$1.80 per hour. University Food Director George Prillaman was assigned to other duties and the University gave up its operation to SAGA Food Services, but the reprieve was short.

In November the workers walked out again, this time more than 300. A vote was overwhelmingly in favor of unionization and the workers returned to work in mid-December.

Tomorrow: A look at the University administration's policies toward blacks with respect to admissions. Affirmative Action and black studies. Are blacks afforded treatment equal to that of white students?