

POLYGRAPH TEST (LIE – DETECTOR TEST) AND TRUTH SERUMS

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Police question suspects, accused and witnesses to elicit the truth. As per the law in India any police officer making an investigation may examine orally any person supposed to be acquainted with the facts and circumstances of the case. Such person shall be bound to answer **TRULY** all questions relating to such case put to him/her by such officer, other than questions the answers to which would have a tendency to expose him/her to a criminal charge or to a penalty or forfeiture. The word **truly** makes it clear that every person is under a legal obligation to speak the truth with legal consequences, i.e. liability to punishment under sec 193 IPC if truth is not spoken or to punishment under sec 179 IPC for refusal to answer questions. However, while examining suspects and accused in connection with criminal cases police often are unable to elicit information although they have strong suspicions on the person. In such circumstances it is imperative that the police raise their level of interrogation skills and also supplement with the use of other aids to interrogation like the polygraph (lie-detector test) and use of 'truth serums'.

Polygraph

The polygraph is a pneumatically operated device, which simultaneously records changes in a subject's blood pressure, pulse, respiration rate and depth, psycho galvanic skin reflex (skin resistance to electrical current) and in some cases muscular activity. When a subject is put to the 'polygraph' test (Lie-detector test) the machine reflects and records only the subjects' physiological responses to the questions asked by the operator who then interprets the polygraph and determines whether the subject is lying or otherwise. The instrument in fact, records the sign of internal stress accompanying deception.

Modern polygraph recording has become computerized. This consists of a computer, a coupling unit that provides for amplification of the physiological signals and their conversion to digital form, and a printer.

Legality

The polygraph test (Lie detector test) is at present used by investigators as an aid to investigation but has no evidentiary value in courts. The record of physiological and biological responses through a polygraph machine is yet to be admissible in the court of law. However, such behaviour record enables the I.O. to decide on the directions to be pursued. However, any court in India does not bar its use in the aid of investigation. In fact the Government of India through the National Human Rights Commission has given guidelines relating to administration of Polygraph Test on a suspect/accused.

NHRC GUIDELINES RELATING TO ADMINISTRATION OF POLYGRAPH TEST (LIE DETECTOR TEST) ON AN ACCUSED/ SUSPECT.

- 1) No Lie Detector Tests should be administered except on the basis of consent of the accused. An option should be given to the accused whether he wishes to avail such test.
- 2) If the accused volunteers for a Lie Detector Test, he should be given access to a lawyer and the physical, emotional and legal implication of such a test should be explained to him by the police and his lawyer.
- 3) The consent should be recorded before a Judicial Magistrate.

- 4) During the hearing before the Magistrate, the person alleged to have agreed should be duly represented by a lawyer.
 - 5) At the hearing, the person in question should also be told in clear terms that the statement that is made shall not be a “confessional” statement to the Magistrate but will have the status of a statement made to the police.
 - 6) The Magistrate shall consider all factors relating to the detention including the length of detention and the nature of the interrogation.
 - 7) The actual recording of the Lie Detector Test shall be done in an independent agency (such as a hospital) and conducted in the presence of a lawyer.
- (8) A full medical and factual narration of manner of the information received must be taken on record.

Procedure to be followed by Police Officers for using the Polygraph:

- (1) The I.O. should ask the suspect/accused whether he/she wishes to avail the test.
- (2) If the suspect/accused does not volunteer to undergo the test write a C.D. stating so and inform superior officer.
- (3) If the accused volunteers to undergo the test his consent should be recorded before a Judicial Magistrate and access to a lawyer should be given. The I.O. should file an application in the jurisdictional Court and request the judge to record the consent of the Suspect Accused.
- (4) The suspect/accused should be given access to a lawyer and the physical, emotional and legal implications should be explained to the suspect/accused. by the I.O. and his lawyer.
- (5) The Prosecutor should inform the suspect/accused at the hearing i.e. when the consent is about to be recorded that the statement made shall not be a “confessional” statement to the Magistrate but will have the status of a statement made to the police.
- (6) After the consent is recorded the I.O. should meet the Joint Director of A.P.State FSL at Hyderabad and give the full facts of the case and the doubts, apprehensions about certain aspects for which suspect/accused was unable to give or which the I.O. could not obtain. He will prepare a set of questions to be administered to the suspect/accused.
- (7) The I.O. will then discuss these questions with the superior officer and after finalization should either bring the suspect/accused to the FSL in Hyderabad for the Test or send the Polygrapher to the location on where the suspect/accused is as per suspect/accused choice.
- (8) While conducting the test ensure that the test is conducted in the presence of a lawyer and preferably a doctor.
- (9) After the test is over take the report from the Joint Director, FSL and discuss with the superior officer for further necessary action.

Truth Serums

After the fall of the Taliban to the US-led coalition forces hundreds of Taliban and Al-Qaida suspects were caught and held captive at Camp X-Ray at Guantanamo Bay, Cuba. US interrogators could make little or no headway in their interrogation tactics which opened up a debate in the USA in the year 2002 of the use or otherwise of 'truth serums' to extract vital information from the Taliban and Al-Qaida fighters.

Nearer home in India investigators with the use of truth serums have tasted reasonable success in the Godhra investigations. Truth serums administered on five of the accused arrested in the Godhra carnage provided vital leads to the police in the Feb 27, 2003 incident that killed 59 Ram sevaks. Following the use of truth serum the police were able to arrest several of the accused in the Godhra case, whose names had not cropped up till then.

Again in India in the on going fake stamp investigation the Pune court had given the green signal for administering truth serum on the accused. And judging by the media reports the interrogators got vital clues.

Meaning

Truth serums are intravenous drugs administered by a physician in small amounts by vein every few minutes, the procedure usually taking about an hour. The suspect/accused is drowsy and slurred of speech, but awake. The drug(s) cause a feeling of relaxation, warmth and closeness to the interviewer and while in this state the suspect/accused is questioned. The drugs used are Amytal, Nembutal, Seconal, Pentothal, Valium, Ativan, etc.

History

Truth serums were reportedly first used by the US Army and by the Nazis during the Second World War. Several compounds were tested which included experiments with a potent extract of marijuana, mescaline, LSD, etc.

Legality

Truth serum is at present used by investigators as an aid to investigation but has no evidentiary value in courts. The record of responses is not admissible in the court of law. However, it enables the I.O. to decide on the directions to be pursued.

Conclusion

Both the lie-detector test and truth serums are an aid to the interrogator and the investigating officer and they should resort to their use when all else has failed. The police officer should be sensitive to their use and should fully understand the physical, emotional and legal implication of conducting the lie-detector test and administering the truth serum.