



**Testimony of Kimberly McCullough, Legislative Director
In Opposition to SB 519
Senate Committee on Judiciary
March 14, 2017**

Chair Prozanski and Members of the Committee,

While the ACLU of Oregon understands the good intentions behind SB 519 (improved screening of law enforcement officers), we have deep concerns about the use of polygraphs in this context and in general.

Our concern stems from the fact that polygraph exams are proven to be inaccurate. Polygraph inaccuracy has been a known quantity for many years. In 2002, the Department of Energy commissioned a study of polygraphs by leaders in the scientific community, in order to assess whether polygraphs should be used to screen government security personnel. The conclusions of that committee were unequivocal: that polygraphs not be used for pre-employment screening.¹

In fact, because polygraphs are inaccurate, evidence of polygraph examination results are prohibited from being used in criminal trials in Oregon, and the State of Oregon long-ago decided to prohibit their use by employers. While other states may use polygraphs to screen law enforcement officers, simply because others states choose to use an inaccurate tool does not mean that Oregon should follow suit.² We understand that the idea is for this tool to be one of many. But the truth is that it is still a broken tool. The question should not be whether it is over-relied upon, but instead why we should rely on a broken tool at all.

Polygraphs in employee screening are particularly problematic because there is no specific event being investigated. Studies show that it is very difficult for both the examinee and examiner to know whether an answer to a question is truthful unless there are clear and consistent criteria that specify what activities justify a “yes” answer. Pre-employment screening is even more problematic because it involves inferences about future behavior on the basis of information about past behaviors.

While polygraphs continue to be used in limited contexts, we believe this practice should stop across the board. We fear that use in one context sends the incorrect message to the public that polygraphs are accurate, when that is simply not true.

Thank you for your time and consideration. Please feel free to contact me if you have any questions, comments, or concerns at kmccullough@aclu-or.org.

¹ Conclusions of the Department of Energy’s Committee to Review the Scientific Evidence on the Polygraph, which was a project of the National Research Council’s Board on Behavioral, Cognitive, and Sensory Sciences and the Committee on National Statistics, may be viewed here: <http://www.nap.edu/read/10420/chapter/10>

² Because polygraph exams are inaccurate, it naturally follows that there are people who have failed an exam in error and been denied a job on that basis. Relevant stories along those lines can be found at http://articles.philly.com/2011-09-19/news/30176183_1_polygraph-george-maschke-measure-anxiety and <http://www.motherjones.com/politics/2002/11/lie-detector-roulette>.