



Police in Canada use polygraph tests in their investigations. Generally, these test results cannot be used as evidence in court.

Courts have found polygraph results to be unnecessary, unreliable and risky as evidence in criminal trials. However, the law is not quite so clear in family matters.

Polygraphs measure and record changes in your physiological (body) symptoms. The test presumes that a person who is lying will have a higher level of anxiety and exhibit physical symptoms like sweating, increased blood pressure, breathing or heart rate. The polygraph operator interprets these changes in your body to determine if you are not telling the truth.

However, a person's body can react differently for a variety of reasons, like stress or being asked uncomfortable questions. A person might not be anxious about lying and the polygraph test might produce inconclusive results. The reliability of a polygraph will also be dependent on the expertise of the person administering the test.

Testimony in court is often not as simple as "the truth" or "a lie". A person's ability to observe, remember and describe what they recall may affect their testimony. Sometimes there is a tendency to "fill in the gaps" in your memory, often without being aware of doing this. In such a case, a witness could give a sincere, but inaccurate, description of what happened.

Focusing on polygraph evidence could take away from other factors that are important when assessing a witness's accuracy and credibility. As a result, polygraph evidence could be more harmful than helpful in helping a judge to come to a just decision.

In a 1987 court case called *R. v. B eland* the Supreme Court of Canada said evidence of polygraph results cannot be introduced in criminal trials. This is because it goes against well-established rules of evidence, is unnecessary and leads to complications and confusion that may derail the proceedings. The Court gave four main reasons why polygraph evidence cannot be used in criminal trials.

[*R. v. B eland*](#)

Reasons to exclude polygraph evidence

Admitting polygraph evidence goes against the evidence rule against

oath-helping

This rule forbids a party from presenting evidence that would increase the credibility of that party's own witness. Polygraph evidence goes against this rule because the only purpose it would serve would be to add support to the accused's testimony, and the polygraph operator would be telling the court that the accused was telling the truth.

Polygraph evidence goes against the rule against admitting consistent out-of-court statements by a witness

This rule says that having another witness testify that the accused person told them the same thing they are telling the court does not add to the accused's credibility. A polygraph operator's testimony would be this type of support for the accused's testimony, so it goes against the rule against past consistent statements.

Polygraph evidence goes against the rule about character evidence

This rule says that an accused may introduce evidence about their general reputation, but cannot relate specific acts which might help establish their character. The results of a polygraph test would go against this rule since it would amount to evidence that they did not lie in a specific event - the test.

Admitting polygraph evidence is contrary to the expert evidence rule

This rule says that an expert may only give their opinion about something if it will help the judge or jury understand a subject that is outside their understanding or experience. If the judge or jury can form their own opinion, then the testimony of experts is unnecessary. Applying this rule to polygraph evidence, the Supreme Court of Canada decided that such evidence would relate only to the issue of the accused's credibility and this issue is well within the court's ability and understanding.

While polygraph evidence cannot be used in criminal trials, the law is not so clear in family court matters. In a 1995 BC family court case, a parent who passed a polygraph was allowed to present that evidence to support testimony that he did not sexually abuse his child. The judge decided the polygraph evidence could be introduced, but weighed it with all other evidence in the trial. (*C. (R.M.) v. C. (J.R.)*, [1995] B.C.W.L.D. 1337) However, more recent family cases in BC have applied the principles from *R. v. Beland* and ruled that polygraph results may not be used in evidence.

Can evidence of a polygraph test be used in court?

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