

The State of South Carolina

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Office of the Attorney General

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September 19, 1988

Robert M. Stewart, Chief
South Carolina Law Enforcement Division
Post Office Box 21398
Columbia, South Carolina 29221

Dear Chief Stewart:

In a letter to this Office, you indicated that S.T.R.A.I.T. Detection Systems, Inc. officials and Lexington County Sheriff James R. Metts have requested that the S.T.R.A.I.T. C.S.A. 1000 Deception Detection Device -- a voice stress monitoring device -- be used in conjunction with the standard polygraph instrument for study purposes only. Your question is as follows:

May the C.S.A. 1000 Detection Deception Device be legally used for study purposes under S.C. Code Ann. §§40-53-10 et seq. (Cum. Supp. 1987)?

In response to your inquiry, Sections 40-53-10 et seq. regulate all persons who use instruments or devices intended to detect deception or to verify the truth of statements through the use of various instruments, e.g., lie detectors, polygraphs, etc. In Section 40-53-40, it is provided that:

Any instrument used to test or question individuals for the purpose of detecting deception or verifying truth of statements shall record visually, permanently and simultaneously: (1) the subject's cardiovascular pattern and (2) respiratory pattern. Patterns of other physiological changes in addition to (1) and (2) may also be recorded. The use of any instrument or device to detect deception or to verify truth of statements which does not meet these minimum instrumentation requirements is hereby prohibited and the operation or use of

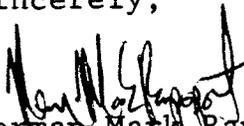
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such equipment shall be subject to penalties and may be enjoined in the manner hereinafter provided.

The foregoing language limits and restricts the use of instruments or devices used to test a subject to detect deception or to verify the truth of his statements to those that visually, simultaneously, and permanently record the subject's cardiovascular pattern, and respiratory pattern, or patterns of other physiological changes. Instruments or devices not meeting these minimum requirements are prohibited, and the operation of these instruments or devices is subject to penalties and may be enjoined. Section 40-53-40 applies only to instruments or devices actually used to "test" a subject to detect deception or to verify the truth of his statements. Nothing in the Section indicates that instruments or devices used for study purposes only, and in conjunction with instruments or devices which meet the minimum prescribed requirements, are prohibited and may be enjoined. However, I would suggest you both obtain the subject's consent to submit to the use of the C.S.A. 1000 Deception Detection Device before conducting the actual examination and certify that its results will not be used against him or her in any forum, i.e., court, employment setting, crime investigation, etc. A written form could easily be drafted and utilized.

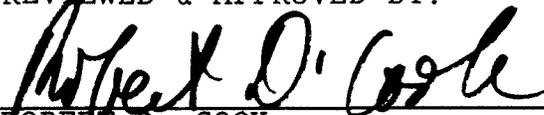
I hope this information will be helpful to you. If I can provide further assistance or clarification, please let me know.

Sincerely,


Norman Mark Rapoport
Assistant Attorney General

NMR/srg

REVIEWED & APPROVED BY:


ROBERT D. COOK
Executive Assistant for Opinions


DONALD J. ZELINKA
Chief Deputy Attorney General