

**Inter
Organizational
Practice
Committee**

January 29, 2025

Dear Representative Fuhriman:



Division 40: The Society for
Clinical Neuropsychology of
the American Psychological
Association



National Academy of
Neuropsychology



The American Board of
Professional Neuropsychology

American Board of
Professional
Neuropsychology



American Academy of
Clinical Neuropsychology



Cultural Neuropsychology
Council

The Inter Organizational Practice Committee (IOPC) is a coalition of the American Academy of Clinical Neuropsychology (AACN), the Society for Clinical Neuropsychology/Division 40 of the American Psychological Association, the National Academy of Neuropsychology (NAN), the American Board of Professional Neuropsychology (ABN), Cultural Neuropsychology Council and the American Psychological Practice Organization (APAPO) tasked with coordinating national neuropsychology advocacy efforts, and representing thousands of neuropsychologists in the United States and Canada.

We strongly support the proposed amendments to Idaho Code 72-433 that would provide an exemption for the testing portion of psychological, neuropsychological, and psychiatric examinations from either third-party observation (TPO) or audio/video recorded. The IOPC is strongly in favor of this amendment to fully align Idaho Workers' Compensation law with the American Psychological Association's Code of Ethics, and industry guidelines regarding TPO and protecting test security.

The physical or electronic presence (e.g. video or audio recording) of a third party observer during a neuropsychological or psychological assessment compromises both the validity of the assessment and the validity of the tests themselves and is a harm to the public. This harm to the public is summarized below. Note that all the major neuropsychological organizations across the country have published statements opposing the use of TPO especially if the resulting recordings are made available to non-psychologists or other non-qualified individuals.

A clinical neuropsychologist is an independent, professional, doctoral-level psychologist who provides assessment and intervention services to people of all ages, based upon the scientific concepts of clinical neuropsychology. Training in clinical neuropsychology comprises a broad background in clinical psychology, as well as specialized training and experience in clinical neuropsychology. Training and preparation in clinical neuropsychology specifically entails 1.) Completion of a doctoral degree in psychology from an accredited university training program, 2.) Internship in a clinically relevant area of professional psychology, 3.) The equivalent of two years of additional specialized training in clinical neuropsychology, and 4.) State or provincial licensure to practice psychology and/or clinical neuropsychology independently.

Non-neuropsychologists do not have the skills to identify if the tests are administered correctly, only a qualified neuropsychologist would be able to determine this. Non-qualified individuals would not understand the mechanics, purpose, validity and interrelatedness of the tests used. Published and peer reviewed papers on the harm done by TPO are attached (Boone et al. 2024a & 2024b, Boone et al. 2022, Glen et al. 2021, Kaufmann, 2009, Lewandowski et al. 2016). Their content can be summarized as follows:

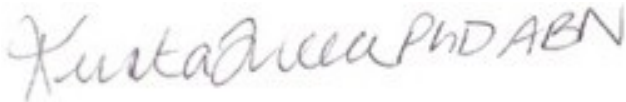
1. Third party observers are a source of distraction in the assessment. Even when third parties are not in the room, the knowledge that a third party is listening via electronic means creates an internal source of distraction. This undermines the ethical principal for psychologists of creating a distraction free test environment.
2. Neuropsychological and psychological measures were developed under a specific set of highly controlled conditions that did not include third party observers. Their presence introduces an unknown variable that prevents the examinees' scores from being meaningfully compared to established norms. Valid interpretation of examinee's test data is therefore compromised.
3. The presence of third party observers obstructs the development of meaningful rapport between the neuropsychologist and examinee. When a third party is in the room or listening via an electronic recording device, an examinee's rapport may be directed solely towards the unseen observer.
4. The content of the test questions is no longer secure. Anyone who listens to the recording of the assessment knows exactly what questions are asked during the standardized assessment. If the general public knows the test questions, then examinees can be coached to provide answers favorable to their claim. The tests lose their validity, much as the validity of a professional law or medical board examination would no longer have validity if the test questions were widely known.
5. Third party observer testing compromises the public safety. For example, the Federal Aviation Administration (FAA) requires cognitive testing of pilots who have experienced medical, neurologic, psychiatric, and substance abuse conditions to ensure that pilots are cognitively capable of flying safely. Similarly, individuals desiring to become police officers are required to undergo psychological testing to ensure that they do not have problematic personality characteristics or other psychiatric conditions that would compromise their ability to safely function as officers. If pilots and police academy candidates were to obtain psychological and cognitive test information prior to undergoing testing, they would be able to "study up" regarding how to perform well on the tests, thus rendering the tests ineffective in identifying individuals who might represent a public safety risk.
6. Legal safeguards such as protective orders do not work. Please refer to the Release of Protected Test Information Under Protective Order: Viable Solution or Illusory Safeguard? An Interorganizational Position Paper. (Boone et al. 2024). This excellent paper demonstrates why protective orders do not work to safeguard psychological and neuropsychological test materials especially in this digital age. Other legal scholars (Childs, 2007) have also pointed out that protective orders do not work to protect psychological and neuropsychological test information.

In conclusion, the use of any type of third party observation is harmful to the testing process and will alter the assessment results. Third party observation is harmful as the integrity of the testing process and materials is compromised. Third party observation can cause harm to the public. It is recommended that third party observers not be used. A neuropsychologist faced with an order to record or in any other way have a TPO observer our recommendation is that the neuropsychologist recuse themselves from the case.

Sincerely,
Constituent members of the IOPC Coalition



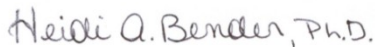
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References

- Boone, K.B., Sweet, J.J., Beattey, R.A., Kaufmann, P.M., Hebben, N., Marreiro, C., James, J., Silva, D., Victor, T., Hamilton, A., Glen, T., Kinsora, T.F., Bender, H.A., Barisa, M. (2024a) Release of Protected Test Information Under Protective Order: Viable Solution or Illusory Safeguard? An Interorganizational Position Paper. *Archives of Clinical Neuropsychology*, acae101. <https://doi.org/10.1093/arclin/acae101>
- Boone, K.B., Sweet, J.J., Byrd, D.A., Denney, R.L., Hanks, R.L., Kaufmann, P.M., Kirkwood, M.W., Larrabee, G.L., Marcopulos, B.A., Morgan, J.E., Paltzer, J.Y., Mindt, M.R., Schroeder, R.W., Sim, A.H. & Suhr, J.A. (2022): Official position of the American Academy of Clinical Neuropsychology on test security. *The Clinical Neuropsychologist*, DOI: 10.1080/13854046.2021.2022214
- Boone, K.B., Kaufmann, P. M., Sweet, J. J., Leatherberry, D., Beattey, R. A., Silva, D., ... James, J. (2024b). Attorney demands for protected psychological test information: Is access necessary for cross examination or does it lead to misinformation? An interorganizational* position paper. *The Clinical Neuropsychologist*, 38(4), 889–906. <https://doi.org/10.1080/13854046.2024.2323222>
- Childs, W.G. (2007). When the bell can't be unring: Document leaks and protective orders in mass tort litigation. *The Review of Litigation*, 27, 565–606.
- Glen, T., Barisa, M., Ready, R., Peck, E. & Spencer, T.R. (2021): Update on Third Party Observers in Neuropsychological Evaluation: An Interorganizational Position Paper. *The Clinical Neuropsychologist*. DOI:10.1080/13854046.2021.1901992
- Kaufmann, P.M. (2009). Protecting Raw Data and Psychological Tests from Wrongful Disclosure: A Primer on the Law and Other Persuasive Strategies. *The Clinical Neuropsychologist*, 23(7), 1130-1159. DOI: 10.1080/13854040903107809
- Lewandowski, A., Baker, W. J., Sewick, B., Knippa, J., Axelrod, B., & McCaffrey, R.J. (2016). Policy Statement of the American Board of Professional Neuropsychology regarding Third Party Observation and the recording of psychological test administration in neuropsychological evaluations. *Applied Neuropsychology: Adult*, 23(6), 391–398. <https://doi.org/10.1080/23279095.2016.1176366>

