

Mr. KASS. I understand. But where you gave the polygraph to these 1,100 cases, how many of those people, based on all of your other investigations, were finally brought to court?

Mr. HERNDON. Mr. Kass, in order to be helpful, in the fiscal year 1964, we used the polygraph in 593 investigative matters involving 1,155 persons. Statistics available reflect that in approximately 15 percent of the investigative matters, or about 90, we obtain signed statements or confessions. The majority of these will usually result in court cases.

Mr. KASS. Mr. Herndon, of those 15 percent or so that may or may not have gone to court, how many of those were declared incompetent by the judge?

Mr. HERNDON. None, to my personal knowledge, Mr. Kass.

Mr. KASS. Does the Bureau keep any records as to followthrough or subsequent verification of your own results on the polygraph?

Mr. HERNDON. No, I think that would be an impractical job, actually.

Mr. KASS. Why?

Mr. HERNDON. Because in many cases, when you render polygraph examinations, many of the people are going to be, by chance, innocent. In many instances you never know the final outcome of a particular case, whether or not that person in fact was or was not guilty or was or was not innocent.

Mr. KASS. Now, you say many of these people may be, by chance, innocent people. Could you explain this? You don't pick people up off the street and start giving polygraphs?

Mr. HERNDON. Of course not. But we would naturally interrogate logical suspects in any given crime. And if you have a number of people that are considered suspects, let's say the crime was actually only committed by one person, obviously some of those people are going to be innocent, or we can presume to be innocent.

Mr. KASS. Have you ever run across a situation where the polygraph, or as a result of the polygraph examination, your polygraph operator and/or the Bureau has determined this person is guilty and in fact he subsequently turned out to be innocent?

Mr. HERNDON. I have had no such case brought to my attention in that regard.

Mr. KASS. Have you ever found cases the other way?

Mr. HERNDON. You mean where we found people appeared to be guilty—

Mr. KASS. No, where you determine they are innocent and they subsequently turned out to be guilty?

Mr. HERNDON. I believe we might have had one or two instances—and I am not certain of this. We may have had an isolated case where an examiner felt that the person was not involved and later it turned out he was involved. But these situations are relatively rare.

You must remember that we do not consider the polygraph technique sufficiently precise. We don't expect our examiners to come up with the conclusion that subject A or subject B is guilty or not guilty.

Mr. KASS. What conclusions does the polygraph operator make in the FBI?