

fall into that category, and the only reason we ask that is that the investigative agent should provide the background of the individual, so that those who are going to pass judgment on it would know who is going to get the polygraph examination.

Mr. KASS. This has nothing to do with Congressman Rumsfeld's point, that maybe some politicians would not get favorable responses and therefore you would avoid them?

Mr. MOHR. Oh, no.

Mr. KASS. Mr. Mohr, in your instructions to the agents, agents are to "consider whether the use of the polygraph technique might jeopardize any other prosecutive action." How would you explain that?

Mr. MOHR. Well, there might be a situation where a person might already be, for instance, under indictment. We wouldn't want to give a polygraph to a person who had been indicted.

Mr. KASS. Why would this make a difference?

Mr. MOHR. Normally we wouldn't interview somebody who is under indictment since his attorney would not be present, and it could conceivably be an interference with his right to a fair trial.

Mr. KASS. Are there ever situations where the person taking the polygraph is allowed to have his attorney present in the room?

Mr. MOHR. It has happened.

Mr. KASS. Do you inform them of their rights to have an attorney present in the room?

Mr. MOHR. We inform individuals who are under arrest of the fact that they can have attorneys or consult an attorney. In the usual situation we would not give the polygraph with the attorney present.

Mr. KASS. Is it possible, however, Mr. Conrad, to get a reading from the polygraph when a third party is present?

Mr. CONRAD. Yes, it is.

Mr. KASS. Is it a practice in your agency to have a third party present?

Mr. CONRAD. Yes.

Mr. MOHR. Yes, the case agent is also present in the room when the interview is being conducted.

Mr. KASS. You do not use two-way mirrors, do you?

Mr. CONRAD. No.

Mr. KASS. Do you use any hidden recording devices?

Mr. CONRAD. We do not.

Mr. KASS. Mr. Mohr, you referred in your opening statement to a waiver a person must sign prior to taking the polygraph examination. Why does he have to sign such a waiver?

Mr. MOHR. We think it is important to insure that the individual who is taking the polygraph examination is doing it voluntarily. And we can't think of a better way of proving that than by the use of this statement. He has signed it; it has been witnessed; and he knows exactly what is going to take place.

Mr. KASS. Mr. Chairman, can we insert the waiver in the record at this point?

Mr. MOSS. Is there objection?

(No response.)

Mr. MOSS. It will be inserted at this point.