

Mr. KASS. Do you tell the person in advance of the test the questions that you are going to ask on the peak of tension series?

Mr. HERNDON. In normal practice by FBI polygraph examiners we carefully go over each and every question prior to the actual polygraph test.

Mr. KASS. Couldn't every single question be a peak of tension test? The mere fact you use the words "Did you," and the person doesn't know what the rest of the question is going to be, and yet he thinks that is the critical question, you are going to get a response.

Mr. HERNDON. That is possible.

Mr. KASS. How can you account for that, or how can you rule that out?

Mr. HERNDON. He generally has been indoctrinated with the examination, he knows these questions are coming up, and it doesn't seem to interfere by saying "Did you," or whatever the start of the question is. We have had no problem in that regard, Mr. Kass.

Mr. KASS. How do you know?

Mr. HERNDON. No one has indicated to us they didn't understand the question or realize the intent of the question.

Mr. KASS. How many guilty people could you have let go just because they got no response on the chart?

Mr. HERNDON. Here again if we were using this technique like a serology examination or toxicology examination, where it was specifically going to be a vital part of whether or not the Federal Government was going to prosecute a man, it would be a difficult question to answer. But this is strictly an interview and I, as an examiner, would, with the case agent, sit down and try to best determine whether or not it appeared this man could be hedging on that question or have a motivation with regard to the question. We are trying to ascertain whether or not he has been telling the truth. Additional investigation may determine his guilt or innocence.

Mr. KASS. What about a person who is in an interview situation? You did state earlier this was used as an investigative technique to give you more leads. What happens if the guilty person gets no reaction because of the type of question you ask? Do you let him go?

Mr. MOHR. Excuse me. You say a guilty person?

Mr. KASS. Perhaps he is the one who did the crime in question.

Mr. MOHR. If we didn't know, yes; we would let him go.

Mr. KASS. As a result of the polygraph examination, you would let him go?

Mr. MOHR. As a result of the total overall interview we would let him go, but we would continue our investigation.

Mr. KASS. At what stage in the interview does the polygraph examination take place?

Mr. HERNDON. The polygraph examination generally takes place during the middle part. In other words, you have the pretest interview, where the case agent and the examiner openly discuss the case with the suspect to see how much he knows, what he wants to volunteer, and what information he would like to tell the agents. If desirable, we proceed with the polygraph technique. Then follows the post interrogation technique, where the polygraph examiner and the case agent discuss the answers with the suspect.

Mr. KASS. In other words, after any polygraph examination, you still keep the person for further interview?