

Question 1. In testifying before the subcommittee on August 19, 1965, you stated: "Based on the actual experience of investigators, we have determined we will continue to use [the polygraph]." What is this experience to which you refer?

Answer. In the course of the preparation of DOD Directive 5210.48 "The Conduct of Polygraph Examinations and the Selection, Training and Supervision of DOD Polygraph Examiners," dated July 13, 1965, numerous conferences were held with representatives of the U.S. Army Counterintelligence Command, the Office of the Provost Marshal General of the U.S. Army, the Office of Naval Intelligence, the Air Force Office of Special Investigations, and the National Security Agency. These representatives of DOD investigative organizations uniformly commented upon the desirability of continuing to use the polygraph as an aid to investigative activity. Their views were based upon years of experience in investigative work including the use of the polygraph. It is this experience to which I referred in my testimony.

Question 2. During the course of the hearing, you informed the subcommittee that the polygraph had proved to be useful to the Defense Department in pursuing both criminal and security investigations. Please explain this statement.

Answer. Use of the polygraph has proved useful to the DOD in pursuing both criminal and security investigations in that unusual physiological responses of persons being interrogated in the course of a polygraph examination may, to an experienced examiner, indicate subject matter for immediate further interrogation, suggest the desirability of further investigation or indicate specific investigative leads, and in some instances may raise the possibility that the person being examined may be practicing deception.

Question 3. You informed the subcommittee that the polygraph should perhaps be used in connection with the recruitment of such individuals as foreign scientists. What utility can be achieved from such tests?

Answer. The defense scientist immigrant program (DEFSIP) was established in 1945 to enable outstanding foreign scientists to contribute to classified defense research practically immediately upon arrival in the United States without waiting for the completion of the security investigation after arrival. DEFSIP is not a recruiting program. Only outstanding foreign scientists, usually with a doctorate degree, who apply on their own initiative for assistance in their expressed desire to immigrate to the United States are considered. Since 1955 DEFSIP has included a polygraph examination as part of its background investigation. When the scientist applies to DEFSIP he is informed during the first interview that processing requirements include a polygraph examination. Often in the case of such foreign personnel there are periods which cannot be fully investigated through conventional investigative techniques and the polygraph examination is used in this connection. To date security experience under DEFSIP has proved favorable.

Question 4. Is there a Department of Defense policy to exclude from courtroom evidence (whether military or civilian) the fact that a participant in the trial was subjected to a polygraph examination? Is there any such policy on excluding such evidence from administrative tribunals and/or hearings?

Answer. The Department of Defense policy governing admissibility of evidence regarding information which reveals whether an individual has been subjected to a polygraph examination is determined by the rules of evidence applied in the particular court. The rules of evidence applicable in courts-martial generally preclude the introduction of evidence of the results of a polygraph examination. The fact that such an examination was administered may in unusual situations be received in evidence, if otherwise relevant and competent. For example, it has been used by defendants before courts-martial to place the time sequence of the interrogation of the accused in perspective and otherwise to raise the issue of the voluntariness of the statement of the accused. Civilian courts have in general followed the same rules with respect to polygraph examinations. The initiative in the attempted presentation of such evidence is essentially a matter for counsel in the particular case, and, the admissibility of the evidence is a judicial matter for determination by the courts under the applicable rules of evidence.

Answer. Although Federal tribunals and hearings do not use the rules of evidence, they do observe reasonable restrictions as to relevancy, competency, and materiality. Under this guidance the results of polygraph examinations are generally not considered by such tribunals or boards. Whether the evidence that an individual undertook a polygraph examination would be admissible in such a hearing would depend on the facts of the particular case, but usually such