



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Polygraph
SPECIAL

March 5, 1984

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer

Central Intelligence Agency
National Security Council
Department of Justice

SUBJECT: DOD testimony on use of polygraph before Senate
Armed Services Committee

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than ASAP but not later than noon March 6. Hearing is March 7.

Questions should be referred to Hilda Schreiber
(395-4650) ~~or to~~-----+-----
the legislative analyst in this office.

Naomi R. Sweeney

Naomi R. Sweeney for
Assistant Director for
Legislative Reference

67

Enclosures



STAT

MAR 5

11:55 am

STATEMENT OF GENERAL RICHARD G. STILWELL, USA (RET.)

DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY

BEFORE

THE SENATE ARMED SERVICES COMMITTEE

7 MARCH 1984

MR. CHAIRMAN. I APPRECIATE THIS OPPORTUNITY TO APPEAR BEFORE THE COMMITTEE TODAY TO EXPLAIN THE NATURE, EXTENT AND PURPOSE OF THE CHANGES THE DEPARTMENT IS CONSIDERING TO ITS POLICY ON USE OF THE POLYGRAPH.

IT APPEARS FROM CONTINUING MEDIA COVERAGE, AS WELL AS PUBLIC AND CONGRESSIONAL INQUIRIES AND COMMENTS, THAT A NUMBER OF MISCONCEPTIONS CONTINUE TO EXIST REGARDING NOT ONLY THE PROPOSED CHANGES, BUT ALSO THE VALIDITY OF USE OF THE POLYGRAPH IN GENERAL. IT IS MY SINCERE HOPE THAT BY CLARIFYING THESE MATTERS I MIGHT PROVIDE A CLEARER AND MORE ACCURATE PERSPECTIVE ON THESE ISSUES AND THEREBY ENCOURAGE SUPPORT OF THE DEPARTMENT'S PROPOSAL TO USE THIS UNIQUE INVESTIGATIVE TECHNIQUE AS A MEANS TO ACHIEVE GREATER SECURITY FOR OUR MOST SENSITIVE CLASSIFIED INFORMATION.

BEFORE ADDRESSING SPECIFICS OF THE DEPARTMENT'S PROPOSED USE OF THE POLYGRAPH, I BELIEVE IT WOULD BE WORTHWHILE TO ACQUAINT YOU WITH SOME BASIC FACTS CONCERNING THE POLYGRAPH INSTRUMENT, POLYGRAPH EXAMINATION, AND HISTORY OF USE OF THE POLYGRAPH.

SINCE THE INTRODUCTION OF THE FORERUNNER OF MODERN POLYGRAPH INSTRUMENTS SOME 60 YEARS AGO, THE POLYGRAPH INSTRUMENT HAS COME TO BE PERCEIVED AS BEING CAPABLE, IN AND OF ITSELF, OF DETECTING DECEPTION. THE TERMS "POLYGRAPH" AND "LIE DETECTOR," HAVE IN FACT, BECOME VIRTUALLY SYNONYMOUS.

IN ACTUALITY, THERE IS NO SUCH THING AS A "LIE DETECTOR."

2.

THE POLYGRAPH INSTRUMENT IS RATHER, A ELECTROMECHANICAL DEVICE THAT IS CAPABLE OF MEASURING AND RECORDING CERTAIN PHYSIOLOGICAL FUNCTIONS. ALL POLYGRAPH INSTRUMENTS USED BY THE DEPARTMENT HAVE AT LEAST THREE, BUT MORE OFTEN 4 OR 5 CHANNELS WHICH RECORD, AS A MINIMUM -- RESPIRATION -- ELECTRODERMAL RESPONSE -- BLOOD VOLUME -- AND HEART RATE. SINCE THE NATIONAL SECURITY AGENCY TESTIMONY HAS ALREADY DISCUSSED THE TECHNICAL ASPECTS OF THE POLYGRAPH -- I WILL NOT REPEAT THAT INFORMATION AT THIS TIME.

I WOULD EMPHASIZE THAT ATTACHMENT OF THE INDIVIDUAL TO THE POLYGRAPH INSTRUMENT IS BUT ONE ASPECT OF A POLYGRAPH EXAMINATION. ESSENTIALLY, A POLYGRAPH EXAMINATION CONSISTS OF THREE PHASES.

IN THE FIRST --OR PRE-TEST PHASE-- THE POLYGRAPH EXAMINER REVIEWS ALL THE INFORMATION AVAILABLE CONCERNING THE EXAMINEE, AND THE FACTS OF THE PARTICULAR INVESTIGATIVE CASE. IT IS ALSO DURING THIS PHASE THAT EXAMINEES WOULD BE ADVISED OF THEIR RIGHT TO LEGAL COUNSEL, TO HAVE LEGAL COUNSEL AVAILABLE FOR CONSULTATION DURING THE EXAMINATION, AND THEIR PRIVILEGE AGAINST SELF-INCRIMINATION.

THE EXAMINER THEN CONDUCTS AN IN-DEPTH INTERVIEW OF THE EXAMINEE ON MATTERS PERTINENT TO THE EXAMINATION, AND DETERMINES THE INDIVIDUAL'S MENTAL AND PHYSICAL FITNESS FOR EXAMINATION. IF THERE IS ANY QUESTION CONCERNING THE EXAMINEE'S FITNESS FOR EXAMINATION, THE EXAMINATION WILL BE POSTPONED PENDING EVALUATION BY COMPETENT MEDICAL OR PSYCHOLOGICAL PERSONNEL.

3.

THE EXAMINER WILL EXPLAIN THE NATURE AND CHARACTERISTICS OF THE POLYGRAPH INSTRUMENT AND DEVELOP -- IN CONJUNCTION WITH THE EXAMINEE -- ALL RELEVANT QUESTIONS THAT ARE TO BE ASKED. SUCH QUESTIONS MUST HAVE A SPECIAL RELEVANCE TO THE SUBJECT OF THE INVESTIGATION. NO QUESTION MAY BE ASKED CONCERNING MATTERS SUCH RELIGIOUS BELIEFS/AFFILIATIONS -- RACIAL MATTERS -- POLITICAL BELIEFS OR AFFILIATIONS OF A NONSUBVERSIVE NATURE -- OR OPINIONS REGARDING THE CONSTITUTIONALITY OF LEGISLATIVE POLICIES. I WOULD HIGHLIGHT THAT SIGNIFICANT ADMISSIONS OR CONFESSIONS ARE QUITE OFTEN OBTAINED DURING THIS PHASE OF THE EXAMINATION THE NEXT PHASE -- OR IN-TEST PHASE, CONSISTS OF THE EXAMINEE BEING ATTACHED TO THE POLYGRAPH INSTRUMENT AND BEING ASKED TO GIVE A YES OR NO RESPONSE TO EACH OF THE PREVIOUSLY REVIEWED AND DISCUSSED QUESTIONS.

IN THE THIRD -- OR POST-TEST PHASE -- THE EXAMINER REVIEWS THE PHYSIOLOGICAL REACTIONS REFLECTED ON THE CHARTS AND MAKES A PRELIMINARY EVALUATION. IF NECESSARY, THE EXAMINER THEN QUESTIONS THE EXAMINEE REGARDING ANSWERS GIVEN TO PARTICULAR QUESTIONS. WITHIN DOD, THREE CHARTS ARE NORMALLY COLLECTED ON EACH EXAMINEE, WITH OCCASIONAL VARIATION IN THE SEQUENCE -- BUT NOT THE SUBSTANCE OF THE QUESTIONS. SIGNIFICANT ADMISSIONS OR CONFESSIONS ARE ALSO FREQUENTLY OBTAINED DURING THIS PHASE OF THE EXAMINATION.

THE EXAMINER THEN FORWARDS ALL INFORMATION AND MATERIALS CONCERNING THE EXAMINATION, TO INCLUDE AN OPINION REGARDING TRUTHFULNESS OR DECEPTION, TO A SUPERVISORY EXAMINER. IT IS ONLY AFTER THE

SUPERVISORY EXAMINER HAS MADE AN INDEPENDENT ANALYSIS OF THE POLYGRAPH CHARTS AND REVIEWED ALL ASPECTS OF THE EXAMINATION THAT AN OFFICIAL OPINION IS RENDERED REGARDING TRUTHFULNESS OR DECEPTION. I WOULD PARTICULARLY NOTE THAT THIS OPINION APPLIES ONLY TO THE OUTCOME OF THE POLYGRAPH EXAMINATION. DOD POLYGRAPH EXAMINER PERSONNEL DO NOT MAKE DECISIONS REGARDING THE FINAL OUTCOME OF INVESTIGATIVE CASES IN WHICH A POLYGRAPH EXAMINATION HAS BEEN ADMINISTERED. MOREOVER, AS A MATTER OF POLICY, THE RESULTS OF A POLYGRAPH EXAMINATION MAY BE CONSIDERED ONLY IN THE CONTEXT OF OTHER INVESTIGATIVE EFFORT AND NOT CONSIDERED CONCLUSIVE, IN THEMSELVES, OF THE MATTER UNDER INVESTIGATION. BASICALLY, NO ACTION IS TO BE TAKEN SOLELY ON AN ANALYSIS OF THE POLYGRAPH CHARTS.

THE USE OF THE POLYGRAPH BY THE FEDERAL GOVERNMENT AS AN AID IN SUPPORT OF OTHER INVESTIGATIVE TECHNIQUES SPANS A PERIOD OF MORE THAN 60 YEARS. AS EARLY AS 1917, THE BUREAU OF INVESTIGATION -- PREDECESSOR TO THE FEDERAL BUREAU OF INVESTIGATION -- WAS USING THE POLYGRAPH ON AN OCCASIONAL BASIS TO RESOLVE CRIMINAL CASES. AT ABOUT THIS SAME TIME, THE POLYGRAPH WAS FIRST USED IN A COUNTERINTELLIGENCE INVESTIGATION BY THE DEPARTMENT OF THE ARMY.

IN THE AREA OF SECURITY SCREENING, THE POLYGRAPH WAS USED IN THE EARLY 1940'S -- TO SCREEN POTENTIAL EMPLOYEES AT THE OAK RIDGE ATOMIC FACILITY AND LATER, NEAR THE END OF WORLD WAR II -- TO SCREEN 274 GERMAN PRISONERS OF WAR WHO WERE BEING CONSIDERED FOR POLICE LEADERSHIP POSITIONS IN THE POST-WAR GERMAN GOVERNMENT. IN THIS LATTER INSTANCE, 110 OF THE INDIVIDUALS WERE NOT

5.
RECOMMENDED DUE TO ADMISSIONS OBTAINED DURING THE POLYGRAPH EXAMINATION TO MEMBERSHIP IN THE NAZI PARTY, GESTAPO SS -- OR COMMUNIST PARTY. ONE OF THE INDIVIDUAL'S IDENTIFIED AS A NAZI PARTY MEMBER PROVED TO HAVE BEEN THE PARTY TREASURER FROM 1933 TO 1938.

IN 1947, THE NEWLY FORMED CENTRAL INTELLIGENCE AGENCY BEGAN USING THE POLYGRAPH IN SUPPORT OF OPERATIONS -- FOR INVESTIGATION OF SPECIFIC ALLEGATIONS--AND FOR SCREENING OF POTENTIAL EMPLOYEES. BY 1950, CIA WAS SCREENING ALL APPLICANTS FOR EMPLOYMENT WITH THE AGENCY.

IN MAY 1951, THE ARMED FORCES SECURITY AGENCY -- PREDECESSOR TO THE NATIONAL SECURITY AGENCY, BEGAN USING THE POLYGRAPH TO EXPEDITE THE CLEARANCE PROCESSING OF MORE THAN A THOUSAND EMPLOYEES WHO HAD BEEN HIRED BUT WHOSE CLEARANCE WOULD HAVE OTHERWISE BEEN DELAYED PENDING COMPLETION OF THE BACKGROUND INVESTIGATION. BECAUSE OF THE KOREAN WAR, THOSE INVESTIGATIONS WERE TAKING AS LONG AS 18 MONTHS TO COMPLETE. BY 1953, AFSA-NSA, WAS GIVING POLYGRAPH EXAMINATIONS TO ALL APPLICANTS FOR EMPLOYMENT.

AS USE OF THE POLYGRAPH BEGAN TO EXPAND WITHIN THE FEDERAL GOVERNMENT, THE CONGRESS BEGAN TO EXAMINE ITS USE MORE CLOSELY. CONSEQUENTLY, IN 1963, THE FOREIGN OPERATIONS AND GOVERNMENT INFORMATION SUBCOMMITTEE, HOUSE GOVERNMENT OPERATIONS COMMITTEE, INITIATED EXTENSIVE HEARINGS INTO THE FEDERAL GOVERNMENT'S USE OF THE POLYGRAPH.

AS A RESULT OF THE HEARINGS, THE DEPARTMENT, WORKING CLOSELY WITH MEMBERS OF THE SUBCOMMITTEE STAFF, DEVELOPED AND ISSUED DOD DIRECTIVE 5210.48 WHICH, AT THAT TIME, WAS VIEWED AS THE FIRST COMPREHENSIVE EFFORT TO PRESCRIBE UNIFORM POLICIES AND PROCEDURES CONTROLLING USE OF THE POLYGRAPH AND SELECTION, TRAINING AND SUPERVISION OF POLYGRAPH EXAMINERS. THIS DIRECTIVE, REVISED IN 1975 -- AND MOST RECENTLY AMENDED IN 1979 -- GOVERNS THE DEPARTMENT'S CURRENT USE OF THE POLYGRAPH.

UNDER CURRENT POLICY GUIDANCE, THE POLYGRAPH IS USED AS AN INVESTIGATIVE TOOL -- AND ONLY AFTER INVESTIGATION BY OTHER MEANS HAS BEEN AS THOROUGH AS CIRCUMSTANCES PERMIT AND ONLY WHEN THE INDIVIDUAL TO BE EXAMINED CONSENTS TO THE EXAMINATION. ADVERSE ACTION CANNOT BE TAKEN FOR REFUSAL TO TAKE A POLYGRAPH EXAMINATION.

ESSENTIALLY, THERE ARE 4 TYPES OF CASES IN WHICH THE POLYGRAPH MAY BE AUTHORIZED. FIRST -- TO ASSIST IN RESOLVING SERIOUS CRIMINAL CASES (THOSE INVOLVING OFFENSES PUNISHABLE BY DEATH, OR CONFINEMENT FOR ONE YEAR OR MORE.) SECOND -- COUNTERINTELLIGENCE INVESTIGATIONS (INVESTIGATIONS OF ALLEGED UNAUTHORIZED DISCLOSURES OF CLASSIFIED INFORMATION, AND ALLEGED ACTS OF ESPIONAGE, SABOTAGE OR TREASON.) THIRD -- INTELLIGENCE OPERATIONS (WHICH WOULD INVOLVE USE OF THE POLYGRAPH TO ASSIST IN DETERMINING THE RELIABILITY OF INDIVIDUALS WHO ARE -- OR WHO CLAIM TO BE -- AGENTS, SOURCES OR OPERATIVES.) AND, FOURTH -- PERSONNEL SECURITY INVESTIGATIONS FOR TWO PURPOSES: ONE, TO ASSIST IN DETERMINING THE ELIGIBILITY OF INDIVIDUALS FOR EMPLOYMENT, ASSIGNMENT OR DETAIL TO THE NATIONAL SECURITY

AGENCY AND NSA CONTRACTOR PERSONNEL FOR ACCESS TO SENSITIVE CRYPTOGRAPHIC INFORMATION; TWO, TO ASSIST IN RESOLVING DEROGATORY INFORMATION DEVELOPED DURING A PERSONNEL SECURITY INVESTIGATION OF DOD MILITARY, CIVILIAN OR CONTRACTOR EMPLOYEES, WHEN SUCH INFORMATION CAUSES DOUBT THAT ACCESS TO CLASSIFIED INFORMATION IS CLEARLY CONSISTENT WITH THE INTERESTS OF NATIONAL SECURITY, AND THE INVESTIGATION HAS REACHED AN IMPASSE.)

IN ADDITION TO THESE GENERAL CATEGORIES OF USE. THE POLYGRAPH MAY ALSO BE AUTHORIZED WHEN REQUESTED FOR THE PURPOSE OF EXCULPATION, BY THE SUBJECT OF A CRIMINAL, COUNTERINTELLIGENCE OR PERSONNEL SECURITY INVESTIGATION.

AS I INDICATED PREVIOUSLY, THE DEPARTMENT'S ORIGINAL POLYGRAPH DIRECTIVE WAS DEVELOPED IN RESPONSE TO CONGRESSIONAL AND PUBLIC CONCERN FOR SAFEGUARDS TO PREVENT MISUSE AND ABUSE. I WOULD NOW LIKE TO SUMMARIZE FOR YOU THE LIMITATIONS AND CONTROLS THAT HAVE BEEN INCORPORATED INTO OUR EXISTING DIRECTIVE.

AUTHORITY TO APPROVE POLYGRAPH EXAMINATIONS IS LIMITED TO THE SECRETARIES OF THE MILITARY DEPARTMENTS, DIRECTORS, NSA AND DIA AND MYSELF. FURTHER DELEGATIONS MUST BE REVIEWED AND APPROVED BY ME. LIMITATIONS HAVE ALSO BEEN PLACED ON WHO CAN CONDUCT POLYGRAPH EXAMINATIONS. AT THE PRESENT TIME, THE FOLLOWING ARE THE ONLY DOD ACTIVITIES AUTHORIZED TO CONDUCT POLYGRAPH EXAMINATIONS -- TO ACQUIRE OR POSSESS POLYGRAPH EQUIPMENT -- OR TO HAVE POLYGRAPH EXAMINERS:

. U.S. ARMY CRIMINAL INVESTIGATION COMMAND

8.

- . U.S. ARMY ASSISTANT CHIEF OF STAFF, INTELLIGENCE
- . U.S. NAVAL INVESTIGATIVE SERVICE
- . U.S. MARINE CORPS LAW ENFORCEMENT SECTION
- . U.S. AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS
- . U.S. AIR FORCE ASSISTANT CHIEF OF STAFF, INTELLIGENCE
- . NATIONAL SECURITY AGENCY

WE STRICTLY LIMIT DISSEMINATION OF THE REPORTS OF POLYGRAPH EXAMINATION.

TECHNICAL REPORTS OF POLYGRAPH EXAMINATION -- WHICH INCLUDE THE EXAMINER'S PREPARATIONS, EXAMINER'S NOTES, THE POLYGRAPH CHARTS, AND OTHER TECHNICAL DETAILS OF THE EXAMINATION -- ARE NOT RELEASABLE OUTSIDE THE AGENCY CONDUCTING THE POLYGRAPH EXAMINATION -- EXCEPT AS REQUIRED BY LAW.

THE REPORT OF RESULTS OF A POLYGRAPH EXAMINATION -- WHICH INCLUDES A SYNOPSIS OF THE EXAMINATION, THE RELEVANT QUESTIONS ASKED AND EXAMINEE'S ANSWERS, THE OPINION REGARDING TRUTH OR DECEPTION, AND ANY ADMISSIONS MADE BY THE EXAMINEE -- MAY BE MADE AVAILABLE WITHIN DOD -- TO OFFICIALS RESPONSIBLE FOR PERSONNEL SECURITY, LAW ENFORCEMENT, AND ADMINISTRATION OF CRIMINAL JUSTICE. THE REPORT OF RESULTS MAY BE MADE AVAILABLE --OUTSIDE DOD -- TO LAW ENFORCEMENT OFFICIALS WHEN THE EXAMINATION REVEALS ALLEGED VIOLATION OF A FEDERAL OR STATE LAW -- AND, TO THE PERSON EXAMINED OR THEIR LEGAL COUNSEL, WHEN REQUESTED. IN ALL INSTANCES, AN ACCOUNTING IS MAINTAINED OF THE DISSEMINATION IN ACCORDANCE WITH THE PRIVACY ACT OF 1974.

CONTROLS HAVE ALSO BEEN ESTABLISHED ON POSSESSION AND MAINTENANCE OF POLYGRAPH INSTRUMENTS. ALL INSTRUMENTS MUST BE MAINTAINED IN SECURE STORAGE TO PREVENT DAMAGE OR MISUSE. FURTHER, RECURRENT CHECKS ARE MADE TO ENSURE THAT THE INSTRUMENTS ARE PROPERLY CALIBRATED AND THE EXAMINER IS REQUIRED TO NOTE THE SERIAL NUMBER OF THE INSTRUMENT USED AND THE DATE IT WAS LAST CALIBRATED, IN THE POLYGRAPH EXAMINATION TECHNICAL REPORT.

SINCE THE POLYGRAPH EXAMINER PLAYS SUCH AN IMPORTANT ROLE IN THE POLYGRAPH EXAMINATION PROCESS, OUR POLICY PRESCRIBES PARTICULARLY STRINGENT STANDARDS FOR THE SELECTION, TRAINING AND SUPERVISION OF POLYGRAPH EXAMINERS.

TO BE SELECTED AS A DOD POLYGRAPH EXAMINER AN INDIVIDUAL MUST BE --A U.S. CITIZEN -- 25 YEARS OF AGE -- A GRADUATE OF A 4-YEAR ACCREDITED COLLEGE OR EQUIVALENT AND HAVE TWO YEARS EXPERIENCE AS AN INVESTIGATOR -- BE THE SUBJECT OF A BACKGROUND INVESTIGATION -- AND THE SUBJECT OF A POLYGRAPH EXAMINATION. THE LATTER REQUIREMENT HAVING BEEN ESTABLISHED AS A MEANS OF ENSURING THAT AN EXAMINER FULLY REALIZES THE IMPACT OR EFFECT OF THE POLYGRAPH EXAMINATION ON INDIVIDUALS THEY MAY SUBSEQUENTLY EXAMINE. AT THE PRESENT TIME, THERE ARE APPROXIMATELY 150 CERTIFIED POLYGRAPH EXAMINERS IN DOD.

UNDER THE POLICY GUIDANCE OF MY OFFICE, THE DEPARTMENT OF THE ARMY MANAGES THE TRAINING PROGRAM FOR DOD POLYGRAPH EXAMINERS. THE COURSE OF STUDY IS 12 WEEKS AND THE CURRICULUM INCLUDES COURSES IN:

- . INVESTIGATIVE TECHNIQUES

- . METHODS OF INTERROGATION
- . BASIC ELEMENTS OF NORMAL, ABNORMAL AND CRIMINAL PSYCHOLOGY
- . CONSTITUTIONAL AND OTHER LEGAL CONCERNS
- . PHYSIOLOGY
- . FUNCTIONING OF THE POLYGRAPH, ITS CAPABILITIES AND LIMITATIONS
- . AND, DOD POLICY ON POLYGRAPH USE

FOLLOWING COMPLETION OF THE COURSE OF INSTRUCTION EACH CANDIDATE FOR POLYGRAPH EXAMINER MUST SERVE A PROBATIONARY PERIOD OF FROM 6 MONTHS TO ONE YEAR. DURING THIS TIME THE CANDIDATE MUST CONDUCT A MINIMUM OF 25 EXAMINATIONS UNDER THE DIRECT SUPERVISION OF A CERTIFIED DOD POLYGRAPH EXAMINER. ONCE THE CANDIDATE HAS BEEN CERTIFIED, IT IS REQUIRED THAT THEY CONDUCT A MINIMUM OF 18 POLYGRAPH EXAMINATIONS SEMIANNUALLY TO MAINTAIN THEIR PROFICIENCY AND, THAT THEY RECEIVE REFRESHER TRAINING AT LEAST ONCE EVERY TWO YEARS. TO HIGHLIGHT THE QUALITY OF OUR TRAINING, IT IS POINTED OUT THAT A NUMBER OF OTHER FEDERAL AGENCIES -- TO INCUDE THE FBI AND THE U.S. SECRET SERVICE -- TRAIN THEIR EXAMINERS AT THE DOD POLYGRAPH SCHOOL.

AS PREVIOUSLY STATED, THE ROLE OF THE SUPERVISORY EXAMINER IS AN ESSENTIAL ELEMENT OF THE DEPARTMENT'S SUCCESS IN MAINTAINING QUALITY CONTROL OF POLYGRAPH EXAMINATIONS.

ON THE BASIS OF THIS HISTORICAL PERSPECTIVE, WE CAN NOW PROCEED TO ADDRESS -- IN A MORE MEANINGFUL WAY -- WHY THE DEPARTMENT IS CONSIDERING CHANGING ITS POLYGRAPH POLICY -- OUR POSITION WITH RESPECT TO THE VALIDITY AND UTILITY OF THE

POLYGRAPH -- AND DETAILS OF THE CHANGES THAT ARE BEING CONSIDERED.

ONE POINT ON WHICH THERE IS NO DISAGREEMENT IS THAT THERE IS CERTAIN INFORMATION IN THE FEDERAL GOVERNMENT THAT REQUIRES PROTECTION IN THE INTERESTS OF MAINTAINING THE SECURITY AND INTEGRITY OF OUR COUNTRY. THERE IS ALSO A CONSENSUS THAT THIS INFORMATION FALLS INTO DIFFERENT CATEGORIES OF SENSITIVITY AND THAT THE MOST SENSITIVE INFORMATION IS THAT WHICH INCLUDES CRYPTOGRAPHIC SYSTEMS, CERTAIN RESEARCH AND DEVELOPMENT PROJECTS, AND INTELLIGENCE SOURCES AND METHODS.

BASICALLY, THERE IS A THREE-PRONGED APPROACH TO PROVIDING SECURITY FOR CLASSIFIED INFORMATION -- PHYSICAL SECURITY (SAFES, GUARDS, ALARMS, ETC) -- INFORMATION SECURITY (CLASSIFICATION, ACCOUNTABILITY AND RESTRICTION ON DISSEMINATION AND REPRODUCTION) -- AND -- PERSONNEL SECURITY.

HISTORICALLY, THE GOAL OF PERSONNEL SECURITY IS TO DETERMINE THE TRUSTWORTHINESS OF INDIVIDUALS --PRIOR TO THEIR BEING GRANTED ACCESS TO CLASSIFIED INFORMATION OR ASSIGNMENT TO PARTICULARLY SENSITIVE DUTIES-- AND ON A CONTINUING BASIS THEREAFTER. IT IS EVIDENT THAT INSTALLATION OF THE MOST COMPREHENSIVE AND SOPHISTICATED PHYSICAL AND INFORMATION SECURITY SYSTEMS ARE TO NO AVAIL, IF THE CLEARED AND TRUSTED EMPLOYEE ELECTS TO COMPROMISE OUR SENSITIVE INFORMATION TO OUR ADVERSARIES. THUS, PEOPLE ARE CENTRAL TO THE SECURITY ISSUE.

TRADITIONALLY, THE KEYSTONE TO PERSONNEL SECURITY HAS BEEN THE PERSONNEL SECURITY FIELD INVESTIGATION, WITH THE NATURE AND EXTENT

12.

OF THIS INVESTIGATION DEPENDING UPON THE LEVEL OF SENSITIVITY OF THE INFORMATION INVOLVED. ESSENTIALLY, SUCH INVESTIGATION WOULD INCLUDE -- CHECKS OF LOCAL AND NATIONAL LAW ENFORCEMENT AGENCIES -- EMPLOYMENT -- CREDIT REFERENCES -- AND INTERVIEWS WITH FRIENDS, NEIGHBORS, CO-WORKERS, AND OTHER PERSONS WHO ARE IN A POSITION TO COMMENT ON THE INDIVIDUAL'S RELIABILITY AND TRUSTWORTHINESS.

HOWEVER, COMMENCING IN THE MID-1970s, A NUMBER OF EVENTS TOOK PLACE WHICH SERIOUSLY ERODED DOD PERSONNEL SECURITY INVESTIGATIONS. THESE EVENTS INCLUDED: A CONGRESSIONALLY DIRECTED REDUCTION IN DOD INVESTIGATIVE RESOURCES-- THE ADVERSE IMPACT OF THE PRIVACY ACT OF 1974 ON THE WILLINGNESS OF PERSONS OR ORGANIZATIONS TO PROVIDE RELEVANT INFORMATION -- LIMITATIONS PLACED ON ACCESSIBILITY OF SCHOOL RECORDS -- AND, ISSUANCE OF JUSTICE DEPARTMENT REGULATIONS THAT CAUSED MANY LOCAL JURISDICTIONS TO SEVERELY LIMIT ACCESS TO LAW ENFORCEMENT RECORDS.

THE CONSEQUENCE OF THESE EVENTS WAS: A SERIOUS DEGRADATION IN OUR ABILITY TO CONDUCT PERSONNEL SECURITY INVESTIGATIONS -- LESS RELEVANT INFORMATION BEING AVAILABLE -- AND, A SIGNIFICANTLY LESS VALID INVESTIGATIVE PRODUCT.

THIS SITUATION-- WHILE IN ITSELF A MATTER OF SERIOUS CONCERN-- WAS FURTHER COMPLICATED BY ANOTHER, MORE THREATENING TURN OF EVENTS -- ESPIONAGE WAS ON THE UPSWING. AS PRIMARY EXAMPLES, CONSIDER THAT THE CASES OF BOYCE & LEE, KAMPILES, LT COOK, CWO HELMICH AND WILLIAM HOLDEN BELL. ALL WERE UNCOVERED IN THE PERIOD BETWEEN

13.

THE LATE 1970s AND END OF 1983. THESE CASES INVOLVED THE COMPROMISE TO OUR ADVERSARIES OF INFORMATION RANGING FROM THE MOST SECRET RESEARCH AND DEVELOPMENT MATERIAL TO TOP SECRET COMPARTMENTED INTELLIGENCE INFORMATION.

THUS, IT BECAME CLEAR THAT SPECIAL EFFORTS HAD TO BE TAKEN TO PROTECT OUR MOST SENSITIVE RESOURCES VITAL TO THE MAINTENANCE OF NATIONAL SECURITY.

IN LIGHT OF THIS CRITICAL SITUATION, IN 1982 I APPOINTED A SELECT PANEL, COMPOSED OF SENIOR DEFENSE OFFICIALS, WHO WERE CHARGED WITH REVIEWING THE DEPARTMENT'S PERSONNEL SECURITY PROGRAM FROM TOP TO BOTTOM AND DEVELOPING RECOMMENDATIONS FOR RESOLUTION OF THE PROBLEM. THE PANEL WAS CHAIRED BY MR. DAVID O. COOKE, THE DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR ADMINISTRATION., AND WAS COMPOSED OF:

- . THE NAVY GENERAL COUNSEL
- . THE ARMY DIRECTOR OF THE GENERAL STAFF
- . THE AIR FORCE DEPUTY ASSISTANT SECRETARY FOR LOGISITICS
- . THE DEPUTY DIRECTOR, NSA
- . THE CHIEF OF STAFF, DEFENSE INTELLIGENCE AGENCY

AMONG THE GENERAL RECOMMENDATIONS MADE BY THE PANEL WERE RECOMMENDATIONS FOR TIGHTENING CONTROLS ON THE ISSUANCE OF CLEARANCES, IMPROVED ADJUDICATION OF SECURITY CASES, AND REINSTITUTION OF THE REGULAR REINVESTIGATION OF CLEARED INDIVIDUALS. THE DEPARTMENT HAS TAKEN ACTION IN ALL THESE AREAS TO IMPROVE SECURITY.

14.

OF PARTICULAR IMPORTANCE, THE PANEL RECOMMENDED A COUNTERINTEL-
LIGENCE SCOPE POLYGRAPH EXAMINATION TO ASSIST IN DETERMINING
THE INITIAL AND CONTINUED ELIGIBILITY OF A LIMITED NUMBER OF
INDIVIDUALS IN POSITIONS THAT REQUIRE ACCESS TO EXTREMELY
SENSITIVE CLASSIFIED INFORMATION.

BY COUNTERINTELLIGENCE SCOPE, WE MEAN THAT NO QUESTIONS SHALL
BE ASKED CONCERNING THE INDIVIDUAL'S LIFESTYLE-- THAT IS, NO
QUESTIONS CONCERNING THEIR SEXUAL PREFERENCE, ALCOHOL USE,
CREDIT SITUATION, OR SIMILAR AREAS OF PERSONAL CONDUCT. ON THE
CONTRARY, QUESTIONS ASKED DURING THESE EXAMINATIONS WILL BE STRICTLY
LIMITED TO THOSE NECESSARY TO DETERMINE WHETHER THE INDIVIDUAL HAS:

- . EVER ENGAGED IN ESPIONAGE OR SABOTAGE AGAINST THE UNITED STATES OR KNOWS ANYONE WHO HAS.
- . EVER HAD ANY UNAUTHORIZED CONTACT WITH REPRESENTATIVES OF A FOREIGN GOVERNMENT.
- . EVER BEEN APPROACHED TO GIVE OR SELL -- OR EVER GIVEN OR SOLD CLASSIFIED MATERIALS TO UNAUTHORIZED PERSONS -- OR KNOW ANYONE WHO HAS.

IT WAS IN THIS CONTEXT, THEN, THAT THE DEPARTMENT DEVELOPED A
PROPOSED REVISION OF ITS POLYGRAPH POLICY -- TO SUPPLEMENT OUR
INVESTIGATIVE PROGRAM -- TO DETER AND DETECT ESPIONAGE. I WILL
DETAIL THE SPECIFIC CHANGES SHORTLY -- BUT FIRST, WANT TO COMMENT
BRIEFLY ON OUR GENERAL PHILOSOPHY CONCERNING USE OF THE POLYGRAPH
AS SUPPORTED BY OUR EXTENSIVE FIELD EXPERIENCE WITH THIS UNIQUE
INVESTIGATIVE TOOL.

WE RECOGNIZE THAT THE POLYGRAPH IS NOT INFALLIBLE. WE ARE AWARE
OF THE VARYING CLAIMS OF THE RESEARCH DONE TO DATE REGARDING THE
ACCURACY OF THE POLYGRAPH INSTRUMENT WITH CLAIMS RANGING FROM --

15.

NO BETTER THAN TOSS OF A COIN -- TO UPWARDS OF 97% ACCURACY, ALTHOUGH OUR ASSESSMENT SHOWS IT TO FALL IN THE HIGHER RANGE.

WE ARE AWARE THAT THE OFFICE OF TECHNOLOGY ASSESSMENT (OTA) RECENTLY CONDUCTED A REVIEW OF THE SCIENTIFIC LITERATURE AVAILABLE CONCERNING THE VALIDITY AND ACCURACY OF THE POLYGRAPH, WHICH IS CRITICAL OF THE METHODOLOGY AND RESULTS OF THE RESEARCH THAT HAS BEEN CONDUCTED IN THIS AREA. THE DEPARTMENT OF DEFENSE ADVISED OTA THAT WE BELIEVE THE REPORT IS INACCURATE OR INCOMPLETE IN ITS ANALYSIS OF THE STUDIES AND RESEARCH THAT HAVE BEEN CONDUCTED. IN SOME INSTANCES CONCLUSIONS ARE ASSERTED WITHOUT ANY SUPPORTING EVIDENCE AND WE BELIEVE THOSE CONCLUSIONS TO BE IN ERROR. IN OTHER INSTANCES, IDENTICAL DATA IS USED TO SUBSTANTIATE DIFFERENT AND OFTEN CONTRADICTORY CONCLUSIONS, AND FINALLY, DOD POLYGRAPH PROCEDURES AND TECHNIQUES ARE INACCURATELY DESCRIBED, AND DOD'S PROPOSED POLYGRAPH USE, INACCURATELY PORTRAYED.

THE BOTTOM LINE IS THIS, AS THE RESULT OF EXTENSIVE EXPERIENCE IN CIA, NSA AND DOD, WE ARE CONVINCED THE POLYGRAPH PROCESS WORKS. THE DEPARTMENT HAS DEVELOPED A REPORT --COPIES OF WHICH I HAVE MADE AVAILABLE TO YOU-- WHICH WE BELIEVE DEMONSTRATES THE UTILITY OF THE POLYGRAPH. SOME OF THE MORE INTERESTING HIGHLIGHTS OF THIS STUDY ARE THAT: WITHOUT THE POLYGRAPH AS AN INVESTIGATIVE TOOL, A NUMBER OF ESPIONAGE CASES WOULD NEVER HAVE BEEN SOLVED; THERE HAS BEEN MORE RESEARCH CONDUCTED ON THE DETECTION OF DECEPTION IN THE LAST SIX YEARS THAN IN THE PREVIOUS SIXTY YEARS; AND, THERE IS NO DATA SUGGESTING THAT THE VARIOUS POLYGRAPH TECHNIQUES

AND APPLICATIONS AT DOD HAVE HIGH FALSE POSITIVE OR HIGH FALSE NEGATIVE ERROR RATES.

OF GREATER SIGNIFICANCE , IT IS FELT THAT THE PRECISE ACCURACY OF THE POLYGRAPH PROCEDURE WOULD ASSUME OVERRIDING IMPORTANCE ONLY IF WE INTENDED TO RELY EXCLUSIVELY ON AN ANALYSIS OF POLYGRAPH CHARTS AS A BASIS FOR MAKING DECISIONS -- BUT WE DO NOT. THERE IS NO CHANGE BEING CONSIDERED TO THE DEPARTMENT'S BASIC POLICY THAT THE POLYGRAPH IS TO BE USED ONLY AS AN AID IN SUPPORT OF OTHER INVESTIGATIVE TECHNIQUES. AGAIN, WITH RESPECT TO ACCURACY, IT SHOULD BE RECOGNIZED THAT OTHER INVESTIGATIVE TECHNIQUES SUCH AS BACKGROUND INVESTIGATIONS, SPECIFICALLY, OBTAINING INFORMATION FROM WITNESSES SUCH AS NEIGHBORS, CO-WORKERS, AND CREDIT REFERENCES, MUST ALSO ADMIT TO SOME POTENTIAL FOR ERROR. IT HAS NOT BEEN SUGGESTED THAT SUCH TECHNIQUES BE IGNORED OR BANNED. ON THE CONTRARY, THE ANSWER HAS BEEN TO FORMULATE CONTROLS ON THESE TECHNIQUES TO BOTH PREVENT ABUSE AND MINIMIZE THE POSSIBILITY OF ERROR. WE BELIEVE THIS APPROACH IS ALSO THE PROPER ONE TO TAKE WITH RESPECT TO USE OF THE POLYGRAPH AND THAT SUCH CONTROLS ARE EVIDENT IN BOTH OUR CURRENT AND PROPOSED POLYGRAPH POLICY DOCUMENTS.

WITH RESPECT TO THE VALUE OF THE POLYGRAPH AS AN AID IN INVESTIGATION, I WOULD NOW LIKE TO PROVIDE YOU A FEW EXAMPLES OF THE DEMONSTRATED UTILITY OF THE POLYGRAPH.

IN THE AREA OF CRIMINAL INVESTIGATIONS, THE DEPARTMENT OF THE ARMY -- THE GREATEST USER OF THE POLYGRAPH FOR LAW ENFORCEMENT

17.

PURPOSES IN THE FEDERAL GOVERNMENT -- LAST YEAR USED THE POLYGRAPH IN APPROXIMATELY 20% OF ITS INVESTIGATIONS OF FELONY CRIMES AND ABOUT 95% OF ITS CRIMINAL INVESTIGATIONS FOR WHICH THE MAXIMUM PENALTY IS 15 YEARS OR MORE. AS A RESULT, THE ARMY SOLVED 65% OF THEIR FELONIES WHILE THE NATIONAL AVERAGE FOR THE SAME PERIOD WAS ONLY ABOUT 20%.

ANOTHER EXAMPLE IN THE CRIMINAL AREA -- A RECENT REVIEW OF DOD STATISTICAL DATA CONCERNING USE OF THE POLYGRAPH IN CRIMINAL INVESTIGATIONS DURING 1982 REFLECTS THAT IN AN AVERAGE OF 10% OF THESE INVESTIGATIONS, ADMISSIONS OR CONFESSIONS WERE OBTAINED FROM THE SUBJECT DURING THE PRE-TEST INTERVIEW AND THAT ADMISSIONS OR CONFESSIONS WERE MADE IN APPROXIMATELY 40% OF ALL CASES WHERE DECEPTION WAS INDICATED, DURING THE POST-TEST PHASE OF THE EXAMINATION. BEAR IN MIND, WE ARE NOT TALKING ABOUT THE MECHANICAL CHARTING OF PHYSIOLOGICAL REACTIONS -- BUT ACTUAL RELEVANT ADMISSIONS OR CONFESSIONS OBTAINED FROM THE SUBJECT HIMSELF THROUGH THE SKILLED INTERVIEWING OF THE PROFESSIONAL POLYGRAPH EXAMINER.

IN THE PERSONNEL SECURITY AREA -- EXPERIENCE WITH THE POLYGRAPH IN NSA, CIA AND DOD HAS DEMONSTRATED THE HIGH UTILITY OF THE POLYGRAPH IN IDENTIFYING APPLICANTS WHO WERE CLEARLY UNSUITABLE FOR ASSIGNMENT TO THOSE SENSITIVE AGENCIES. THE POLYGRAPH WAS INSTRUMENTAL IN PREVENTING THE EMPLOYMENT OF INDIVIDUALS WHO ADMITTED THEY HAD BEEN SENT BY HOSTILE INTELLIGENCE TO PENETRATE NSA AS WELL AS PERSONS WHO WERE OTHERWISE COLLABORATING WITH

HOSTILE INTELLIGENCE. CONSIDER THE FOLLOWING NSA CASES:

AN APPLICANT FOR EMPLOYMENT WITH NSA REACTED TO QUESTIONS ON THE POLYGRAPH EXAMINATION CONCERNING ESPIONAGE, CLANDESTINE CONTACTS, AND RELATED QUESTIONS. HE ADMITTED THAT IF EMPLOYED, HE WOULD SELL CLASSIFIED INFORMATION TO A FOREIGN INTELLIGENCE SERVICE IF HE COULD GET ENOUGH MONEY FOR THE INFORMATION TO ENSURE THAT HE COULD LIVE COMFORTABLY.

AN APPLICANT FOR EMPLOYMENT WHO WAS ABOUT TO RETIRE FROM MILITARY SERVICE REACTED TO QUESTIONS ABOUT INTENDING TO COMMIT ESPIONAGE AGAINST THE UNITED STATES. THE APPLICANT THEN DESCRIBED SEVERAL VISITS TO THE SOVIET EMBASSY TO MAKE ARRANGEMENTS TO DEFECT TO THE SOVIET UNION.

AN ARMY SERGEANT WHO HAD ACCESS TO CRYPTOLOGIC INFORMATION APPLIED FOR A CIVILIAN POSITION. DURING THE POLYGRAPH EXAMINATION, HE REACTED TO VARIOUS RELEVANT QUESTIONS. IN THE POST-TEST INTERVIEW, HE ADMITTED TO VARIOUS PETTY CRIMES AND MISCELLANEOUS WRONGDOING. THE POLYGRAPH EXAMINER NOTED CONTINUED SPECIFIC REACTIONS TO RELEVANT QUESTIONS AND WHEN THE SERGEANT WAS REEXAMINED SEVERAL WEEKS LATER, THE SAME SITUATION CONTINUED. HIS ACCESS WAS WITHDRAWN AND AN INVESTIGATION OPENED. WHILE THAT INVESTIGATION WAS STILL IN PROGRESS, HE WAS FOUND DEAD IN HIS AUTOMOBILE. IT WAS SUBSEQUENTLY DETERMINED THAT HE HAD BEEN ENGAGED IN ESPIONAGE ON BEHALF OF THE SOVIET UNION AND HAD COMPROMISED EXTREMELY SENSITIVE INFORMATION.

AN APPLICANT FOR EMPLOYMENT WHO HAD LIVED ABROAD FOR SEVERAL YEARS ADMITTED THAT SHE WAS CULTIVATED FOR SEVERAL MONTHS BY THE HOST COUNTRY INTELLIGENCE AGENCY AND FINALLY OFFERED A POSITION IN WHICH SHE WAS TO TRAVEL TO ANOTHER COUNTRY UNDER A FALSE IDENTITY, BUT AS A U.S. CITIZEN, THEN OBTAIN EMPLOYMENT IN THE TARGET COUNTRY (NOT THE U.S.). SHE SAID THAT AFTER TWO DAYS OF THOUGHTFUL DELIBERATION, SHE DECLINED. SHE HAD NOT PREVIOUSLY REPORTED THIS TO U.S. AUTHORITIES, AND DID SO DURING THE POLYGRAPH TEST ONLY AFTER REACTING TO COUNTERINTELLIGENCE QUESTIONS.

THESE ARE BUT A FEW EXAMPLES, MANY MORE ARE AVAILABLE.

FURTHER, LET US CONSIDER INFORMATION DEVELOPED BY NSA DURING SCREENING EXAMINATIONS OF MILITARY PERSONNEL WHO HAVE BEEN CLEARED FOR ACCESS TO CLASSIFIED INFORMATION ON THE BASIS OF A PERSONNEL SECURITY INVESTIGATION -- BUT NOT SUBJECT TO A POLYGRAPH EXAMINATION -- WHO SUBSEQUENTLY APPLY FOR A POSITION WHERE A POLYGRAPH EXAMINATION IS REQUIRED. A STUDY DONE BY NSA IN 1981 OF 318 SUCH APPLICANTS FOR CIVILIAN POSITIONS WITH THAT AGENCY REFLECTS THAT -- 12% ADMITTED TO ENGAGING IN MISDEMEANOR CRIMES -- 4% ADMITTED TO FELONY CRIMES -- AND 4% ADMITTED USING COCAINE OR HEROIN. IN ALL THESE INSTANCES, THE INFORMATION HAD PREVIOUSLY GONE UNDETECTED.

SIMILARLY, IN 1982, THE DEPARTMENT OF THE ARMY REVIEWED 113 CASES IN WHICH INDIVIDUALS UNDERWENT POLYGRAPH EXAMINATION TO RESOLVE INFORMATION THAT HAD BEEN DEVELOPED IN THE COURSE OF A PERSONNEL SECURITY INVESTIGATION. UP TO THAT POINT IT WAS NOT POSSIBLE TO DEVELOP ADDITIONAL LEADS THROUGH FIELD INVESTIGATION.

81 OF THE 113 INDIVIDUALS EXAMINED -- OR 72%-- INDICATED DECEPTION ON THE POLYGRAPH EXAMINATION. ADMISSIONS WERE OBTAINED IN 71 OR 88% OF THESE DECEPTION INDICATED CASES, WITH 20% OF THE ADMISSIONS INVOLVING UNREPORTED APPROACHES BY HOSTILE INTELLIGENCE --ATTEMPTS TO COMPROMISE CLASSIFIED INFORMATION --OR FOREIGN CONNECTIONS BARRING ACCESS. ANOTHER 49% INVOLVED DRUG USE AND 31% INVOLVED OTHER CRIMINAL ACTIVITY.

AND NOW, TO THE CHANGES THE DEPARTMENT IS CONSIDERING TO ITS POLYGRAPH POLICY. AS YOU WILL RECALL, THERE ARE ESSENTIALLY

4 TYPES OF CASES IN WHICH THE POLYGRAPH MAY BE CURRENTLY UTILIZED -- CRIMINAL, COUNTERINTELLIGENCE, INTELLIGENCE OPERATIONS, AND PERSONNEL SECURITY CASES.

FOLLOWING THE RECOMMENDATION OF THE SELECT PANEL, THE DEPARTMENT PROPOSED TO EXPAND ITS USE OF THE POLYGRAPH IN THE PERSONNEL SECURITY ARENA TO INCLUDE:

REQUIRING POLYGRAPH EXAMINATION OF MILITARY PERSONNEL ASSIGNED TO NSA. AT PRESENT, WHILE ALL CIVILIAN AND CONTRACTOR PERSONNEL AT NSA ARE REQUIRED TO UNDERGO A POLYGRAPH EXAMINATION, THE ONLY MILITARY PERSONNEL ASSIGNED TO NSA WHO ARE CURRENTLY EXAMINED ARE THOSE WHO ARE BEING CONSIDERED FOR CERTAIN HIGHLY COMPARTMENTED POSITIONS AFTER ALREADY SERVING THERE.

POLYGRAPH EXAMINATION OF PERSONNEL IN POSITIONS DESIGNATED BY THE DIRECTOR OF THE DEFENSE INTELLIGENCE AGENCY AS CRITICAL INTELLIGENCE POSITIONS.

ASSIST IN DETERMINING THE INITIAL ELIGIBILITY OF DOD CIVILIAN, MILITARY, AND CONTRACTOR PERSONNEL FOR ACCESS TO INFORMATION PROTECTED WITHIN "SPECIAL ACCESS PROGRAMS," ESTABLISHED PURSUANT TO EO 12356 AND DEPARTMENTAL DIRECTIVES, AND, TO DETERMINE, ON A RANDOM BASIS, THE CONTINUED ELIGIBILITY OF THOSE PREVIOUSLY GIVEN ACCESS TO SUCH INFORMATION; PROVIDED, THAT USE OF THE POLYGRAPH IN ANY SUCH PROGRAM SHALL BE APPROVED BY THE DUSD(P), BASED UPON A FINDING THAT USE OF THE POLYGRAPH IS WARRANTED DUE TO THE EXTRAORDINARY RISK TO THE NATIONAL SECURITY IF THE INFORMATION TO BE PROTECTED WERE COMPROMISED. REQUESTS FOR DUSD(P) APPROVAL MUST COME FROM THE HEAD OF THE DOD COMPONENT WHO CREATED THE SPECIAL ACCESS PROGRAM CONCERNED.

ASSIST IN DETERMINING ELIGIBILITY OF DOD CIVILIAN, MILITARY AND CONTRACTOR PERSONNEL FOR INTERIM ACCESS TO SENSITIVE COMPARTMENTED INFORMATION, PRIOR TO COMPLETION OF THE BACKGROUND INVESTIGATION.

ALL OF THESE WOULD BE LIMITED TO COUNTERINTELLIGENCE SCOPE POLYGRAPH EXAMINATION; THE FIRST THREE WOULD PROVIDE FOR INITIAL AND APERIODIC EXAMINATION. QUESTIONS WILL NOT BE ASKED DURING THESE EXAMINATIONS CONCERNING THE INDIVIDUAL'S

LIFE STYLE BUT RATHER WHETHER THEY ARE, OR KNOW ANYONE WHO IS, INVOLVED IN ESPIONAGE, SABOTAGE, OR UNAUTHORIZED CONTACT WITH REPRESENTATIVES OF A FOREIGN GOVERNMENT.

IN COMPARISON TO THE LARGE NUMBER OF DOD PERSONNEL ACCESSING CLASSIFIED INFORMATION, WE WOULD APPLY THE PROPOSED POLICY TO A VERY LIMITED NUMBER OF PEOPLE. IT IS ESTIMATED THAT LESS THAN 1% OF THE TOTAL NUMBER OF DOD CIVILIAN, MILITARY AND CONTRACTOR PERSONNEL EMPLOYED BY DOD WOULD BE AFFECTED BY THE PROPOSED CHANGES. FURTHER, THE DEPARTMENT'S APPROACH IN THIS MATTER IS NOT TO POLYGRAPH EACH AND EVERY INDIVIDUAL ON A RECURRANT BASIS. RATHER, IT IS ANTICIPATED THAT SELECTION OF A LIMITED NUMBER OF THESE PERSONNEL ON A STRICTLY RANDOM BASIS WILL BE SUFFICIENT TO ACHIEVE A DETERRENT EFFECT.

THE VALUE OF THE POTENTIAL OF POLYGRAPH EXAMINATION AS A DETERRENT IS ILLUSTRATED BY THE FACT THAT IN A NUMBER OF THE ESPIONAGE CASES UNCOVERED IN RECENT YEARS, THE SUBJECTS OF THESE CASES INDICATED THAT THEY HAD SPECIFICALLY REFUSED DIRECTION FROM HOSTILE INTELLIGENCE TO PURSUE EMPLOYMENT OR ASSIGNMENT TO ACTIVITIES WHERE THEY KNEW THAT THEY WOULD BE REQUIRED TO UNDERGO A POLYGRAPH EXAMINATION.

AS PREVIOUSLY INDICATED, WE RECOGNIZE THAT THE POLYGRAPH IS NOT INFALLIBLE, AND, THEREFORE, OUR POLICY WITH RESPECT TO ADVERSE ACTION BASED ON ANALYSIS OF POLYGRAPH CHARTS IS AS FOLLOWS:

- . WHEN DECEPTION IS INDICATED BY THE EXAMINER'S INTERPRETATION OF THE POLYGRAPH CHARTS, IN-DEPTH INTERVIEW OF

THE SUBJECT WILL BE UNDERTAKEN BY THE EXAMINER, IMMEDIATELY FOLLOWING THE RUNNING OF THE CHART, TO RESOLVE THE INDICATION(S) OF DECEPTION.

- . WHEN THE INDICATED DECEPTION IS NOT RESOLVED WITH THE SUBJECT EITHER THROUGH FURTHER INTERVIEW OR ADDITIONAL CHARTS AT THE TIME OF THE INITIAL POLYGRAPH EXAMINATION, THE SUBJECT WILL BE SO ADVISED AND THE RESULTS OF THE EXAMINATION FORWARDED TO THE REQUESTING AGENCY.
- . WHEN THE REQUESTING AGENCY, AFTER REVIEWING THE POLYGRAPH EXAMINATION RESULTS, DETERMINES THAT THEY RAISE SIGNIFICANT QUESTIONS RELEVANT TO THE SUBJECT'S CLEARANCE/ACCESS STATUS, THE SUBJECT WILL BE GIVEN THE OPPORTUNITY TO UNDERGO ADDITIONAL EXAMINATIONS BY THE EXAMINING AGENCY, USING THE SAME OR A DIFFERENT EXAMINER.
- . WHEN THE SUBJECT ELECTS TO TAKE A SECOND EXAMINATION AND THE RESULTS CONTINUE TO INDICATE DECEPTION, OR WHEN THE SUBJECT OF AN INITIAL EXAMINATION RESULTING IN INDICATED DECEPTION RAISING SIGNIFICANT QUESTION RELEVANT TO THE SUBJECT'S CLEARANCE/ACCESS STATUS DOES NOT ELECT TO BE REEXAMINED, COMPREHENSIVE INVESTIGATION OF THE SUBJECT SHALL BE UNDERTAKEN TO RESOLVE THE INDICATED DECEPTION UTILIZING THE RESULTS OF THE POLYGRAPH EXAMINATION AS AN INVESTIGATIVE LEAD.
- . WHEN THE COMPREHENSIVE INVESTIGATION HAS BEEN COMPLETED AND NO DEROGATORY INFORMATION HAS OTHERWISE BEEN DEVELOPED RELEVANT TO THE SUBJECT'S CLEARANCE/ACCESS STATUS, ADVERSE ACTION MAY NOT BE TAKEN AGAINST THE SUBJECT OF THE POLYGRAPH EXAMINATION. EXCEPTION TO THIS PROVISION MUST BE PERSONALLY APPROVED BY THE SECRETARIES OF THE MILITARY DEPARTMENTS; DIRECTOR, NATIONAL SECURITY AGENCY; OR IN THE CASE OF OTHER DOD COMPONENTS, THE SECRETARY OR DEPUTY SECRETARY OF DEFENSE.

THE QUESTION IS ASKED "WHAT WILL HAPPEN IF THE INDIVIDUAL REFUSES TO TAKE THE EXAMINATION?" OUR PROPOSED POLICY CONCERNING REFUSALS IS AS FOLLOWS:

- . WHEN A POLYGRAPH EXAMINATION HAS BEEN ESTABLISHED AS A REQUIREMENT FOR ACCESS TO CLASSIFIED INFORMATION -- IN DESIGNATED SPECIAL ACCESS PROGRAMS -- INDIVIDUALS WHO REFUSE TO TAKE SUCH AN EXAMINATION MAY BE DENIED ACCESS TO THE CLASSIFIED INFORMATION IN QUESTION, PROVIDED, HOWEVER, THAT THE DOD COMPONENT CONCERNED SHALL ENSURE THAT THE INDIVIDUAL IS RETAINED IN A POSITION OF EQUAL GRADE AND PAY THAT DOES NOT REQUIRE SUCH ACCESS OR SHALL ARRANGE LIKE EMPLOYMENT AT ANOTHER DOD COMPONENT.

- WHEN A POLYGRAPH EXAMINATION HAS BEEN ESTABLISHED AS A CONDITION FOR SELECTION OR ASSIGNMENT TO A POSITION WITHIN THE DEPARTMENT OF DEFENSE --I.E., INITIAL OR CONTINUED EMPLOYMENT, ASSIGNMENT OR DETAIL TO NSA, ASSIGNMENT OR DETAIL TO CIA, AND CRITICAL INTELLIGENCE POSITIONS IN DIA -APPLICANTS AND/OR NOMINEES WHO REFUSE TO TAKE SUCH AN EXAMINATION MAY BE NON-SELECTED OR NON-ASSIGNED.

TERMINATING THE EMPLOYMENT OF AN EMPLOYEE, OTHER THAN AT NSA, OR DISCHARGE OF A MEMBER OF THE MILITARY, ARE NOT CONSEQUENCES THAT MAY BE EMPLOYED AS A RESULT OF REFUSAL TO TAKE A POLYGRAPH EXAMINATION.

FINALLY, THERE IS THE MATTER OF PROTECTION OF THE RIGHTS OF THE INDIVIDUAL AND THE CONCERN THAT HAS BEEN EXPRESSED THAT THESE CHANGES WILL HAVE AN ADVERSE EFFECT ON EMPLOYEE MORALE.

DURING MY TESTIMONY, I HAVE DETAILED MANY OF THE SAFEGUARDS THAT HAVE BEEN OR ARE PROPOSED TO BE ADOPTED TO PROTECT THE RIGHTS OF THE INDIVIDUAL. HOWEVER, IN THE INTEREST OF CLARITY AND ACCURACY, I BELIEVE IT WOULD BE WORTHWHILE TO BRIEFLY STATE EACH OF THESE SAFEGUARDS AT THIS TIME:

- INDIVIDUALS MUST BE GIVEN TIMELY NOTIFICATION OF THE DATE, TIME AND PLACE OF THE POLYGRAPH EXAMINATION.
- INDIVIDUALS MUST BE ADVISED OF THEIR RIGHT TO OBTAIN AND CONSULT WITH LEGAL COUNSEL AND TO HAVE LEGAL COUNSEL AVAILABLE FOR CONSULTATION DURING THE POLYGRAPH EXAMINATION.
- INDIVIDUALS MUST BE ADVISED OF THEIR PRIVILEGE AGAINST SELF-INCRIMINATION.
- EXAMINEE MAY, UPON HIS OR HER OWN VOLITION OR UPON ADVICE OF LEGAL COUNSEL, TERMINATE THE POLYGRAPH EXAMINATION AT ANY TIME.
- NO RELEVANT QUESTIONS MAY BE ASKED DURING THE EXAMINATION THAT HAVE NOT BEEN REVIEWED WITH THE EXAMINEE PRIOR TO THE EXAMINATION.
- ALL QUESTIONS ASKED CONCERNING THE MATTER AT ISSUE MUST HAVE A SPECIAL RELEVANCE TO THE SUBJECT OF THE INQUIRY.

PROBING OF A PERSON'S THOUGHTS OR BELIEFS AND QUESTIONS ABOUT CONDUCT WHICH HAVE NO SECURITY IMPLICATION OR ARE NOT DIRECTLY RELEVANT TO AN INVESTIGATION ARE PROHIBITED (E.G., RELIGION, RACIAL MATTERS, POLITICAL BELIEFS AND AFFILIATIONS).

- TECHNICAL QUESTIONS NECESSARY TO THE POLYGRAPH TECHNIQUE MUST BE CONSTRUCTED TO AVOID EMBARRASSING, DEGRADING OR UNNECESSARILY INTRUSIVE QUESTIONS.
- RELEVANT QUESTIONS ASKED DURING POLYGRAPH EXAMINATIONS ADMINISTERED FOR THE PURPOSE OF ASSISTING IN DETERMINING ELIGIBILITY FOR INITIAL OR CONTINUED ACCESS TO CLASSIFIED INFORMATION MUST BE LIMITED TO PRESCRIBED COUNTER-INTELLIGENCE TOPICS.
- RESULTS OF AN ANALYSIS OF POLYGRAPH CHARTS MUST BE CONSIDERED IN THE CONTEXT OF OTHER INVESTIGATIVE EFFORT, AND NOT AS CONCLUSIVE IN THEMSELVES, OF THE MATTER UNDER INVESTIGATION.
- WHEN A POLYGRAPH EXAMINATION RESULTS IN A FINDING OF DECEPTION INDICATED, THE EXAMINEE HAS THE RIGHT TO REQUEST A SECOND EXAMINATION BY THE EXAMINING AGENCY, USING THE SAME OR A DIFFERENT EXAMINER.
- INDIVIDUALS TRANSFERRED OR REASSIGNED TO A NONSENSITIVE POSITION IN CONNECTION WITH THEIR REFUSAL TO UNDERGO A POLYGRAPH EXAMINATION SHALL NOT INCUR ANY LOSS IN GRADE, RANK OR PAY.
- THE FACT THAT AN INDIVIDUAL REFUSED TO UNDERGO A POLYGRAPH EXAMINATION SHALL NOT BE DISSEMINATED TO THE INDIVIDUAL'S SUPERVISOR OR EMPLOYER, UNLESS ADMINISTRATIVE ACTION IS BEING CONSIDERED.
- ANY ACTIONS TAKEN IN CASES INVOLVING THE POLYGRAPH ARE APPEALABLE IN ACCORDANCE WITH APPLICABLE PERSONNEL OR SECURITY APPEALS PROCEDURES.
- PRIOR TO THE EXAMINATION, EXAMINEE MUST BE ADVISED OF THE NATURE AND CHARACTERISTICS OF THE POLYGRAPH INSTRUMENT, INCLUDING AN EXPLANATION OF THE PHYSICAL OPERATION OF THE INSTRUMENT AND THE PROCEDURES TO BE FOLLOWED DURING THE EXAMINATION.
- EXAMINEE MUST BE ADVISED IF THE POLYGRAPH EXAMINATION AREA CONTAINS A TWO-WAY MIRROR OR OTHER DEVICE, THROUGH WHICH THE EXAMINEE CAN BE OBSERVED AND IF OTHER DEVICES SUCH AS THOSE USED IN CONVERSATION MONITORING OR RECORDING, WILL BE USED SIMULTANEOUSLY WITH THE POLYGRAPH.
- POLYGRAPH EXAMINATION TECHNICAL REPORTS SHALL BE RETAINED BY THE OFFICE CONDUCTING THE POLYGRAPH EXAMINATION AND SHALL

NOT BE DISSEMINATED EXCEPT AS REQUIRED BY LAW.

- . THE RESULTS OF A POLYGRAPH EXAMINATION MAY BE MADE AVAILABLE ONLY TO:
 - .. OFFICIALS WITHIN DOD RESPONSIBLE FOR PERSONNEL SECURITY, INTELLIGENCE, COUNTERINTELLIGENCE, LAW ENFORCEMENT, AND THE ADMINISTRATION OF JUSTICE.
 - .. LAW ENFORCEMENT OFFICIALS OUTSIDE DOD WHEN THE EXAMINATION HAS BEEN CONDUCTED IN CONNECTION WITH THE INVESTIGATION OF A CRIMINAL OFFENSE OR REVEALS CRIMINAL ACTIVITY ON THE PART OF THE INDIVIDUAL EXAMINED.
 - .. THE EXAMINEE OR HIS OR HER LEGAL COUNSEL, UPON REQUEST.
 - .. DOD COMPONENT MEMBERS OF THE NATIONAL FOREIGN INTELLIGENCE BOARD (NFIB) AND OTHER NFIB MEMBER AGENCIES PROVIDED THERE IS AN OFFICIAL NEED FOR THE INFORMATION AND THE THIRD AGENCY LIMITATION WILL BE APPLIED.
 - .. THE NATIONAL ARCHIVES AND RECORDS SERVICE, GENERAL SERVICE ADMINISTRATION, UPON RETIREMENT OF THE FILE.
- . POLYGRAPH EXAMINATIONS SHALL BE ADMINISTERED ONLY BY DOD POLYGRAPH EXAMINERS WHO HAVE BEEN SELECTED, TRAINED, AND CERTIFIED IN ACCORDANCE WITH ESTABLISHED DOD POLICIES AND PROCEDURES.

THE QUESTION HAS BEEN RAISED ABOUT THE IMPACT ON THE MORALE OF THOSE EMPLOYEES SUBJECT TO EXAMINATIONS UNDER THE PROPOSED CHANGES. WE DO NOT BELIEVE THAT EMPLOYEE MORALE WILL BE ADVERSELY AFFECTED SINCE ONLY QUESTIONS OF A COUNTERINTELLIGENCE NATURE MAY BE ASKED, AND THE RESULTS OF THE POLYGRAPH EXAMINATION CANNOT BE RELIED UPON AS THE SOLE BASIS FOR JUDGMENTS RESPECTING THE EMPLOYEE. THIS ASSESSMENT IS SUPPORTED BY A 1982 AIR FORCE SURVEY OF INDIVIDUALS WHO, AS PART OF A PILOT PROJECT, UNDERWENT COUNTERINTELLIGENCE SCOPE POLYGRAPH EXAMINATIONS IN CONNECTION WITH DETERMINING THEIR ELIGIBILITY FOR ACCESS TO EXTREMELY SENSITIVE AND HIGHLY CLASSIFIED USAF PROJECTS. SUBSEQUENTLY, THESE INDIVIDUALS WERE REQUESTED TO COMPLETE A

QUESTIONNAIRE, ON A STRICTLY ANONYMOUS BASIS, REGARDING THEIR REACTION TO THE EXAMINATION. MORE THAN 98% OF THE INDIVIDUALS RESPONDING INDICATED THAT THEY--WERE NOT OFFENDED, HUMILIATED OR DEGRADED BY THE EXAMINATION-DID NOT FIND THE EXAMINATION TO BE AN UNWARRANTED INTRUSION ON THEIR PRIVACY -- FELT COUNTERINTELLIGENCE POLYGRAPH EXAMINATIONS ENHANCE THE SECURITY OF THE WORK ENVIRONMENT -AND, WOULD UNDERGO A POLYGRAPH EXAMINATION IN THE FUTURE. THIS SURVEY AND A NUMBER OF OTHERS ARE DETAILED IN THE DEPARTMENT'S REPORT ON ACCURACY AND UTILITY OF THE POLYGRAPH, COPIES OF WHICH HAVE BEEN PROVIDED TO THE COMMITTEE.

IN CONCLUSION MR. CHAIRMAN, WE BELIEVE --ON THE BASIS OF OUR EXTENSIVE EXPERIENCE WITH THE POLYGRAPH-- THAT THIS UNIQUE INVESTIGATIVE TOOL CAN, WHEN PROPERLY CONTROLLED, BE EMPLOYED IN A MANNER THAT DOES NOT VIOLATE THE RIGHTS AND PRIVACY OF OUR EMPLOYEES, AND YET PROVIDE THE DEPARTMENT WITH A GREATER DEGREE OF SECURITY ASSURANCE WITH RESPECT TO OUR MOST SENSITIVE PROGRAMS THAN WE NOW HAVE. WE BELIEVE THE MERE POSSIBILITY OF BEING SUBJECTED TO A POLYGRAPH EXAMINATION WILL ACT AS A POWERFUL DETERRENT TO THOSE INDIVIDUALS WHO MIGHT CONSIDER AN ATTEMPT TO PENETRATE OR COMPROMISE SUCH PROGRAMS. RECENT HISTORY CLEARLY INDICATES THE EXTENT OF DAMAGE THAT CAN BE CAUSED BY EVEN ONE PERSON WHO HAS ACCESS TO SENSITIVE INFORMATION WHO IS WILLING TO SHARE THAT INFORMATION WITH OUR ADVERSARIES. AS HAS BEEN SAID, THOSE WHO IGNORE HISTORY ARE DESTINED TO REPEAT IT. PERSONALLY, MY RANK AND RECORD NOTWITHSTANDING, I DO NOT CONSIDER IT AN INTRUSION ON MY

PRIVACY FOR THE GOVERNMENT TO ASK ME PRIOR TO GIVING ME THE CAPABILITY TO DO SUCH HARM, WHETHER I AM WORKING FOR THE OTHER SIDE. INDEED, IT ONLY SEEMS PRUDENT THAT IT DO SO.

ONCE AGAIN, MR. CHAIRMAN, I APPRECIATE THIS OPPORTUNITY TO APPEAR BEFORE THE COMMITTEE TODAY AND HOPE THAT I HAVE BEEN SUCCESSFUL IN CLARIFYING FOR YOU THE NATURE, EXTENT AND PURPOSE OF CHANGES TO OUR POLYGRAPH POLICY NOW UNDER CONSIDERATION. WE WELCOME ANY SUGGESTIONS THAT THE COMMITTEE MAY WISH TO OFFER US IN THIS REGARD. I WILL NOW BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE.