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DRAFT:DFM: sk (25 Sept 75)

Honorable James O. Eastland, Chairman
Senate Judiciary Committee
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Senator Bayh's bill S. 1841, "To protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of the polygraph-type equipment for certain purposes," has been referred to the Committee on the Judiciary for consideration. The bill would bar Federal agencies as well as private industry from administering ^{examinations with a} polygraph or other ^{instrument} examinations which test the veracity of statements to employees or applicants.

^{Central Intelligence Agency uses} The predominant use of the polygraph by this Agency is as part of ^{its} the hiring process. After a decision to hire an applicant for a staff position has been made (based on the needs of the Agency and the applicant's qualifications), our Office of Security conducts an investigation to determine if the applicant is of excellent character and of unquestioned loyalty, integrity, discretion, and trustworthiness. Upon completion of the investigation and the accomplishment of medical examinations, a polygraph examination is given as the final investigative aid in the hiring process.

In his June 2 statement accompanying the introduction of S. 1841, Senator Bayh recognized that the intelligence profession has special requirements, and expressed his willingness to consider the need for a limited use of the polygraph in the intelligence field. I believe the need is clear in the case of the Central Intelligence Agency: ~~The~~ polygraph is an essential ^{element} part of our security program. Statistics illustrate how important the polygraph has proven. During the period 1963 through mid-1974, nearly 1800 applicants for staff or staff-type positions were rejected on security grounds. Of this total, over 60 percent were rejected on information solely

or principally developed during polygraph interviews. In a sampling of our recent records, 52 percent of applicants disapproved on the basis of polygraph reports had been security approved until the polygraph examination. Without the polygraph, the disqualifying information in these cases would have been unknown to the Agency, and many ~~unreliable~~^{unsuitable} individuals would have gained access to some of the U.S. Government's most sensitive information. In addition, I believe it reasonable to presume that the program is a significant deterrent to application for employment by unsuitable candidates and, more importantly, penetration attempts by foreign intelligence services.

We at CIA are cognizant of the danger of abuse inherent in the use of any instrument used to distinguish truths from untruths. The Agency has adopted strict procedures to forestall abuses and to protect the rights of those taking the examination. These include:

- each applicant for employment is notified at the time he is given an application of the intent to use a polygraph examination and each must sign an advance consent statement;

- advance interviews with the Office of Personnel and the Office of Medical Services determine if information has been developed as a result of their screening procedures that might preclude the advisability of conducting a polygraph interview;

- notification of the privilege against self-incrimination if a question may pertain to a violation of the criminal law;

- review of the general content of all questions that the applicant will be asked is made before testing to assure that all questions relate directly to security considerations (no questions on religious thought or practices or political affiliations of a non-subversive nature are permitted);

--the applicant is told that the examination may be monitored and possibly recorded to let him know there are no hidden procedures;

--random monitoring by a specialized supervisor to insure that no improper questions are asked;

--maintenance of polygraph records in separate files with very strict need-to-know rules governing access;

--no polygraph-acquired information can be released outside the Agency without the Director's approval or that of the Deputy Director and only if such a release is necessary in the interest of national security;

--the polygraph examiner makes no recommendation as to the security suitability of the person tested;

--the polygraph report is evaluated as but one element in the total investigative report.

In addition to the above, in order to insure that the polygraph examination program maintains rigid adherence to established standards, spot interviews have been conducted with applicants who have completed polygraph tests. In one program, several thousand female applicants were interviewed after their polygraph examinations and there were no indications of abuses.

Finally, the selection of polygraph officers is extremely discriminating as to their qualifications, intelligence, integrity, and high character. They are given a rigorous training program which is a continuing process to keep them abreast of developments in their professional field. In this respect, CIA has maintained a vigorous research effort inquiring into new techniques and equipment to insure that highest standards are maintained.

The National Security Act of 1947 (50 U.S.C. 403) charges the Director of Central Intelligence with protecting Intelligence Sources and Methods from unauthorized disclosure. However, this responsibility is not accompanied by the sanctions I believe necessary to deter unauthorized disclosure. As a result, past Directors and I have found it exceedingly difficult to fulfill this responsibility. This lack of effective sanctions for unauthorized disclosures makes it even more critical that this Agency possess the tools necessary to identify ^{unsuitable} questionable applicants. [Therefore, if S. 1841 is reported to the Senate by the Judiciary Committee, I strongly urge the Committee to add the following amendment to proposed section 246 of Title 18:

"(d) ~~The provision of this section shall not apply to the Central Intelligence Agency~~ *and the National Security Agency.*"]

The National Security Agency also collects and disseminates extremely sensitive foreign intelligence information, and that Agency has also found it necessary to use the polygraph as part of its security program. I believe the use of the polygraph by NSA is also fully justifiable, but I refer the Committee to NSA for the details of their program.

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. E. Colby
Director