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COMMITTEE ON EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

518 HOUSE OFFICE BUILDING ANNEX #1

WASHINGTON, DC 20515

SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES

The use of Lie Detectors in Hiring and Firing
(H.R. 1524 and H.R. 1924)

September 18, 1985, 2:00 p.m.
Room 2257, Rayburn House Office Building

Witnesses

Congressman Bob Livingston
R-Louisiana
Member of Congress

Larry Talley
Vice President, Risk Management
Days Inn

Testimony of Lawrence W. Talley
Chairman, Georgia State Board of Polygraph Examiners
Vice President of Risk Management, Days Inn of America, Inc.
Vice President-Private, American Polygraph Association

Before the Employment Opportunities Subcommittee
Committee on Education and Labor
U.S. House of Representatives

September 18, 1985

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My name is Lawrence W. Talley, and I am Vice President of Risk Management for Days Inns of America, which operates 425 hotels and motels nationwide. I also serve as Vice President-Private of the American Polygraph Association. In addition, I am chairman of the Georgia State Board of Polygraph Examiners which is appointed by the governor. This board regulates polygraph examinations and licenses polygraph examiners in the state. In 1984, I worked closely with members of the Georgia General Assembly in drafting a law which is considered to be a model for the nation.

I have seen countless instances in which the polygraph has been invaluable to both employees and employers. Therefore, I oppose outlawing the use of the polygraph in the private sector, as H.R. 1524 and H.R. 1924 would do, but I do support legislation which would provide strict guidelines for examiners and strong protections for the rights of the examinees.

I believe that guidelines for examiners and protections for examinees are essential to protect both employees and employers. I also believe that it is the responsibility of the states to enact and enforce such legislation. States have the Constitutional right and duty to regulate the businesses and industries that provide goods and services to their citizens. They license doctors and dentists, insurance and real estate brokers, utility companies, and numerous other trade and

professional groups. The states are accepting this responsibility and, to date, at least 30 of them have passed legislation regulating the use of polygraph examinations and licensing of polygraph examiners.

The right of the states to govern themselves should be respected. Legislators throughout the country are working to develop legislation which:

- o protects the rights of those taking the examinations
- o establishes training and educational guidelines for examiners
- o sets guidelines for the type and quality of equipment used during the examination
- o restricts the types of questions asked during the examination. Questions would be prohibited involving political or religious beliefs or affiliations, opinions involving racial matters or sexual preferences, and beliefs, affiliations, or lawful activities regarding unions or labor organizations.

In my professional career, I have had an opportunity to gain extensive experience with the use of the polygraph. I believe it is an important investigative tool. In my opinion, Congress acted correctly when it voted 333-71 to support expanded use of the polygraph in protecting national security. The directors of our government's intelligence agencies, such as the Naval Intelligence Agency and the National Security Agency, have said that the polygraph is a legitimate investigative tool that is valuable in helping them to carry out their mission. American

business also needs this tool to carry out its responsibilities to protect the health and welfare of millions of American consumers as well as to protect billions of dollars in company and stockholder assets.

In 1975 in my own company, we were experiencing internal losses which amounted to over \$1 million annually. By instituting a loss prevention program which uses the polygraph technique, we have been able to reduce those losses to an average of \$115,000 a year. While losses have been reduced to about one-eighth of the 1975 figure, company revenues have tripled. We also have experienced more than \$1 million in restitutions made by employees.

At Days Inns, the polygraph has shown such positive results over the last ten years, employees readily volunteer to take polygraph examination when a question of honesty occurs. The polygraph identifies more honesty than dishonesty, and exonerates honest employees who are wrongly accused of misconduct on the job.

Besides the polygraph's value in protecting employees, customers, and company assets, many American businesses use the polygraph to pre-screen persons they are considering hiring. This helps them to select employees who will have a special responsibility to the public, such as:

- o day care centers, who must be especially careful in screening child care personnel
- o banks, where 84% of losses are attributed to internal

theft

o nuclear facilities, whose employees have access to lethal and valuable substances.

In my own industry, the lodging industry, courts across the nation are awarding huge punitive damages against hotels for improperly screening employees who commit crimes against guests.

In addition, the nation's pharmaceutical manufacturers, distributors, and retailers have an important responsibility to protect their products. The Drug Enforcement Administration, which endorses the use of polygraphs, says that half a million to a million doses of legal drugs vanish from inventories each year. These legal drugs can be twice as lethal as illegal drugs. The DEA says that 350,000 Americans are killed or injured each year by legal drugs which are improperly or illegally consumed. This compares with 150,000 who die or are injured each year from using illegal drugs.

From the standpoint of the consumer, the polygraph is an important tool in controlling prices. The National Association of Chain Drug Stores estimates that consumers pay 10-15% more for goods because of internal theft. The polygraph helps in isolating those few employees who violate their employers' trust, enabling businesses to control losses and therefore costs.

The polygraph also protects the many honest employees who may be accused or implicated in a crime, but who have no other way to prove their innocence than by taking a polygraph

examination. I have seen many instances where employees were wrongly accused, often by fellow employees, of crimes that they did not commit. The willingness of these accused employees to take a polygraph to prove their innocence has shown that they, too, respect its value.

Even though the polygraph is considered to have an 85-95% accuracy rate, the polygraph profession strongly discourages employers from using the test results as the sole basis for employment or continued employment. The polygraph is a valuable investigative tool that should be used in conjunction with other methods to gauge an employee's honesty.

The polygraph's value has been demonstrated to me repeatedly, and I hope that I have been able to convey to the committee some of my respect for its usefulness.

Over the past 15 years, at least 100 studies have been conducted by scholars, scientists, and polygraph practitioners concerning the accuracy of the polygraph technique. Based upon a responsible reading of these results, the polygraph has been shown to have an accuracy rate of 85-95%.

I believe that the Office of Technology Assessment, in its 1983 report, distorted its results by using inaccurate statistical methods. We encourage a repeat of that study to present a more realistic picture of the polygraph's accuracy. In 1984, the Department of Defense released a report entitled "The Accuracy and Utility of Polygraph Testing." We believe this report is more thorough than the OTA study.

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Last year, there were widely publicized hearings in the State of Georgia concerning polygraph legislation. At that time, fewer than ten individuals came forward with complaints alleging polygraph abuse in spite of the thousands of polygraph tests that are given every year. At the time of those hearings, I challenged the American Civil Liberties Union to document its claim that the ACLU is inundated with complaints about polygraph abuse. I am still waiting for that documentation.

I appreciate the opportunity to testify today and would be happy to provide the Committee with data supporting any of the points that I have made.

Whether protecting customer trust, company assets, or employee integrity, many American businesses have found the polygraph to be a valuable tool. I believe in the accuracy of the polygraph, and I support the right of American business to have the same access to this investigataive tool that the Federal government has. Further, I believe that the authority to regulate polygraph examinations and the licensing of examiners should be with the states.