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IN REPLY REFER TO
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NAVINSERV INSTRUCTION 5520.13

From: Director, Naval Investigative Service
 To: Distribution List

Subj: The Conduct of Polygraph Examinations and the Selection,
 Training and Supervision of DOD Polygraph Examiners

Encl: (1) DOD Directive 5210.48 of 13 Jul 65
 (2) Revised Polygraph Waiver Form

1. Purpose. To promulgate within the Naval Investigative Service,
 supplemental instructions for the implementation of enclosure (1).

2. Cancellation. ONI INSTRUCTION 5520.83 is being cancelled by
 appropriate authority but enclosures (1) and (2) thereto should be
 retained and appended to this Instruction.

3. Discussion

a. Enclosure (1), promulgated to the Naval Establishment under
 separate cover, contains directions for the conduct of polygraph
 examinations and the requirements for the selection, training and
 supervision of polygraph examiners.

b. Herein follows information clarifying and supplementing
 certain portions of enclosure (1) for the effective implementation
 thereof.

4. Action

a. All provisions of enclosure (1) apply and are to be imple-
 mented. (All paragraph references herein refer to enclosure (1)
 unless otherwise noted).

b. General Policy (paragraph IV).

(1) In addition to the requirements set forth in paragraph
 IV, it remains the policy of the Naval Investigative Service that
 employment of the polygraph in investigations should be restricted,
 if used at all, to cautious use by skilled operators and the

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polygraph should be considered as merely one of the techniques of investigation rather than as a substitute therefor. The correct application of the polygraph technique is as an aid to further investigation or interrogation.

(2) In reference to paragraph IV.A., it is emphasized that the technique is not to be used as a "hunting license," pertinent questions will be restricted to those which are germane to the issue(s) on which the subject has agreed to be tested and control questions may be used only as required to determine if the subject is susceptible to the technique or to determine the presence of a "guilt complex."

(3) In reference to paragraph IV.B and exclusive of the personnel designated therein, requests for polygraph assistance may be received from other Federal, State, Municipal or even private agencies, e.g., Navy contractors, etc. In the interest of improved liaison and cooperation, such requests should be serviced on a highly selective basis as a reciprocal gesture, and provided that circumstances are in all respects favorable to employment of the technique and provided further that such tests are not precluded by local (municipal, state, etc.) ordinances. The request should be confirmed in writing in each instance and a waiver obtained from the subject to be tested. One of the appropriate officials authorized to make a determination (listed in paragraph 4.e (1) herein) must be made aware of the request and his consent obtained before any commitment is made. Polygraph assistance to outside agencies must be in full accordance with the basic instruction and enclosure (1) thereto. Polygraph examiners shall not solicit requests for polygraph service from other agencies nor make arrangements to do polygraph work for other agencies, even on their own time, without the knowledge and expressed consent of the same official(s).

(4) In complying with paragraph IV.C., a distinction must be made between the personnel file and the investigative file. The investigation report itself, in order to be complete and to reflect that all possible steps towards resolution of the particular issue(s) have been taken, shall continue to record the fact that subject was administered or was not administered a polygraph examination. No information concerning the examination or the subject's refusal to submit to same other than one of the two foregoing alternatives will appear in the prime investigation report. When a polygraph examination is administered, all details thereof shall be set forth in a separate category 9B report.

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c. Criminal Investigations (paragraph V).

(1) The statement in paragraph V.A.1. "the subject has been interviewed ---" should cause no confusion since an interview always precedes a polygraph examination. It need not be construed as a separate and divorced action in time and space. Authority from the designated official should be sought prior to commencement of the interview if it is considered that the technique may be employed. If an interrogation is undertaken without the required determination being made for any reason, e.g., not foreseen as a possibility, the interrogation must be interrupted until the required determination is made. In any event, there will be occasions when a considerable time lapse may occur between the completion of the interview and the scheduling of the polygraph examination, if the latter is determined to be appropriate.

(2) Paragraph V does not preclude post-confession polygraph examinations providing all other requirements, including the determination, are met. (E.G. An individual admits culpability but his explanation arouses suspicion, i.e., claims negligence rather than malicious intent. Such an individual may be polygraphed as to the validity of his confession.

d. Counterintelligence Investigations; Intelligence Operations; Cryptologic Information (paragraph VI).

(1) For guidance concerning the statement in paragraph VI.A.1.a. "the subject has been interviewed ---," refer to paragraph 4.c.(1) of this Instruction.

(2) In relation to paragraph VI (sub-paragraph C. excluded and not applicable) the policy of the Naval Investigative Service is restated and emphasized that "personnel screening by polygraph will not be conducted by NIS examiners" unless directed by the Director, Naval Investigative Service, or higher authority.

e. Conduct of Examinations (paragraph VII).

(1) Officials designated to make the determinations required by paragraph VII. B are:

- (a) Director, Naval Investigative Service
- (b) Deputy Director, Naval Investigative Service
- (c) Assistant Director, Investigations, Naval Investigative Service Headquarters.
- (d) Special Assistant for Investigations, Naval Investigative Service Headquarters. CH-1
- (e) ~~Senior Staff Assistant, Investigations Department,~~ ^{POLYGRAPH PROGRAM ADMINISTRATOR} Naval Investigative Service Headquarters. CH-2

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~~(d) Assistant Head, Investigations Department, Naval Investigative Service Headquarters.~~

CH-1

(2) Specific prior approval must be requested from one of the officials listed in paragraph 4.e.1.(1) herein before conducting a polygraph examination. (Requests should be directed to Assistant Head, Investigations Department, Naval Investigative Service Headquarters, NIS-20X.) Letter, speedletter, AUTOVON, telephone or message may be utilized for submitting requests. Sufficient detail will be incorporated so that the authorizing official can make his required determination.

(3) The Director, Naval Investigative Service delegates the authority to authorize polygraph examinations to Commanding Officers of Naval Investigative Service Offices; such delegation is limited to situations of operational necessity and of an emergency nature where authority from one of the officials listed in paragraph 4.e.(1) herein cannot be obtained on a timely enough basis relative to the situation. This authority is not to be further delegated by Commanding Officers. When exercised, the authorizing Commanding Officer shall execute the following affidavit: "Having examined investigative developments to date in the case of -----, it is my determination that use of the polygraph technique is justified and is in compliance with the applicable provisions of DOD Directive 5210.48 of 13 July 1965." The original of this affidavit must contain the signature (not a facsimile) of the authorizing Commanding Officer and shall be forwarded as an enclosure to the polygraph examination report (category 9B).

(4) Compliance with paragraph VII.D.1 will be effected thus:

(a) Naval Investigative Service Headquarters will be the single storage location required by paragraph VII.D.1.

(b) Question sheets and examination charts, properly identified as to Subject, date and sequence, shall be forwarded to Naval Investigative Service Headquarters as enclosures to the category 9B report.

(c) Ninety (90) days after close of the investigation in which the polygraph technique was utilized, field office copies of the 9B reports will be destroyed and thereafter results will be available only at Naval Investigative Service Headquarters.

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f. Selection, Training and Supervision of DOD Polygraph Examiners (paragraph VIII).

(1) These criteria for selection are in addition to those set forth in paragraph VIII.A.:

(a) No Special Agent shall be selected unless he can be assigned immediately after the completion of his training course to an office in which an experienced examiner is already in residence so that he can fulfill the apprenticeship requirement set forth in paragraph VIII.B.3.

(b) The Special Agent selectee must be experienced over a wide range of case categories and have demonstrated outstanding ability in interrogations.

(2) In relation to paragraph VIII.A.2.a.(3), names of those Special Agents who have been trained in previous years and who, as a result of promotion, reassignment of duties or transfers, are no longer active as polygraph examiners, shall be submitted to Director, Naval Investigative Service and these individuals shall no longer be considered qualified examiners. Such determinations shall be a continuing program in the future and the names submitted to Director, Naval Investigative Service as current examiners become ineligible under the conditions of this paragraph.

(3) In relation to paragraph VIII.B., polygraph training will be conducted by Naval Investigative Service Headquarters personnel and implementation of this paragraph (VIII.B.) exclusive of paragraph 3 thereof, will be the responsibility of the Personnel and Training Unit, Naval Investigative Service Headquarters. Implementation of paragraph VIII.B.3. is a joint responsibility of Naval Investigative Service Headquarters and Naval Investigative Service Offices concerned. (Paragraph 4.f.(1) herein refers.)

(4) In reference to paragraph VIII.C.1., the wide divergency in personnel locations and geographic areas of the various units of the Naval Investigative Service, intra and extra CONUS make it impossible to lay down a general rule of supervision which will be applicable in all cases. Insofar as possible in the particular location, the following rules will apply:

(a) In addition to the required determination, the

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examiner will discuss the matter to be covered and the formulation of his questions with his immediate supervisor or senior.

(b) The examination shall be observed where feasible by the supervisor or senior.

(c) When the polygraph examiner is also the senior agent present and it is not feasible to transfer the examination to another office, tape recordings of the procedure should be made, if equipment is available. (See paragraphs V.B.4. and VI.A.2.d).

(d) In all cases, examination results will be closely reviewed at the Naval Investigative Service Office and subsequently at the Naval Investigative Service Headquarters for correctness of procedure and for compliance with enclosure (1).

(5) The copy of the report required by paragraph VIII.C.2. will be the 9B report and shall include all information required by enclosure (1) to the DOD Instruction 5210.48 and will have attached thereto as an enclosure, the written waiver executed by the subject prior to the examination as well as the examination charts and question sheet. In addition, all questions, relevant and irrelevant, including the actual wording of control questions used, when such are necessary, shall be listed in the order in which they were asked and the responses thereto. It shall also include the examiner's opinion as to whether deception was attempted, deception was not attempted or the results are considered indeterminate.

g. Responsibility. A copy of this Instruction with enclosures must be made available to each of the officials listed herein authorized to make the required determination and to each polygraph examiner. It is the responsibility of the polygraph examiner to insure that all examinations conducted subsequent to receipt of this Instruction are in compliance with the tenets set forth herein.

E. G. Rifendurgh

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